IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 19 OF 2011
IN
WRIT PETITION NO. 368 OF 2010

DR. RAKESH SAHNI, THROUGH P.O.A
MR. ANIL MISHRA ... Applicant

Versus

STATE OF GOA, THROUGH ITS CHIEF
SECRETARY AND 5 ORS., ... Respondents

Mr. H. D. Naik, Advocate for the applicant.
Mr. V. Rodrigues, Addl. Govt. Advocate for respondents No.1, 2, and 4.
Mr. C. A. Fereira, Asst. Solicitor General for respondent No.5.
Ms. Norma Alvares, Advocate for respondent No.6.

Coram:- A. P. LAVANDE &
U. V. BAKRE, JJ.

Date:- 2nd April, 2012

P.C.:-

Mr. Naik appearing for the petitioner states that he has been instructed by the petitioner to make a statement that the petitioner is not interested in pursuing the writ petition as also the application. He, therefore, seeks leave to withdraw the writ petition, as well as the application.

2. In view of the above, the writ petition, as well as the application are allowed to be withdrawn, and disposed of as such.

A. P. LAVANDE, J.

U. V. BAKRE, J.

ssm.

GOA COASTAL ZONE MANAGEMENT AUTHORITY

C/o Department of Science, Technology & Environment, Govt. of Goa.
Opp. Saligao Seminary, P.O. Saligao, Bardez, Goa – 403 511
Phone: (0832) 2407186, 2407187, 2407189 Fax: (0832) 2407186

Ref. No.:GCZMA/N/09-10/30 /1420 *Date:- 28/ 03 / 2012*

To,
Dr. Rakesh Sahani,
through his Constituted Attorney,
Shri Anil Mishra,
Presently residing at House No.129/1,
Morjim Beach Road, Narouji Waddo,
Morjim, Pernem, Goa.

Sub: - Application for Approval for construction of a Farmhouse in property bearing Survey No.222/1-B at Ashvem in Mandrem Village, Pernem Taluka.

Sir,

I am directed to refer to your application dated 08/07/2011, on the above cited subject and to inform you that the Goa Coastal Zone Management Authority (GCZMA) has examined your application and after seeking due legal opinion; has decided that as per the CRZ Notification, 2011; construction of dwelling unit/farmhouse, etc. in CRZ areas shall be only for local community/traditional inhabitant of the coastal areas. Further, by merely purchasing a land within 200 – 500 mtrs. in CRZ areas for purpose of putting up a construction, cannot confer traditional rights on the purchaser as equivalent to a person belonging to local community/traditional inhabitant of that area, nor can such rights be claimed for the purpose of putting up a dwelling unit/farmhouse in terms of CRZ Notification, 2011.

2. The GCZMA further refers to the directions of the Hon'ble High Court of Bombay at Goa in judgment of Writ Petition No. 422/1998 with Writ Petition No.99/1999 dated 13/10/2006; where the Hon'ble High Court has stated that,

> 'the expression "construction/reconstruction of dwelling units" in clause (iii) further refers to "within the ambit of traditional rights and customary uses such as existing fishing villages and gaothans." It is settled principle of law of interpretation that no word in a statutory provision including the one in the subordinate legislation can be presumed to be redundant or unintentional. Reference to the "traditional rights" and "customary uses" while regulating construction activities of dwelling units in the coastal area is neither unintentional nor insignificant but evidently it discloses the intention of the framers of the law that the construction activities of dwelling units have to be "within the ambit of traditional rights and customary uses" prevalent and practice in the concerned locality i.e. coastal area. Obviously, it will relate to the persons engaged in traditional occupations in such locality in coastal area which would include fishing, toddy tapping, plantation, etc. Otherwise

the framers of the law would not have occasion to restrict the activity of construction of the dwelling units "within the ambit of traditional rights and customary uses". The said expression essentially discloses that the law makers have considered the importance and necessity of and have, therefore, granted recognition to the activities of the nature of traditional occupations in such coastal area and that has been described as the ambit of extent to which the construction activities can be permitted to have the dwelling units in the said area".

3. As per Clause (7) of the CRZ Notification, 2011, traditional inhabitants along the coastline can be permitted to construct or reconstruct their dwelling units. Considering the purpose for which the CRZ Regulations have been enacted, the clauses will have to be considered strictly and it cannot be interpreted expansively to permit any person who purchases a land within 200-500 mts. to put up construction, including a farm house, unless such person is a inhabitant of that area and can claim traditional rights.

4. As such, the Authority is of the considered opinion that the application cannot be considered for reasons cited above.

Yours faithfully,

(Michael M. D'Souza)
Member Secretary (GCZMA) &
Director / ex-Officio Jt. Secy. (STE)

Copy for kind information to:

1. **Mr. Claude Alvares**, Goa Foundation, Near Mapusa Clinic, Mapusa, Goa.
2. **P.A. to Principal Secretary (Environment)/Chairman (GCZMA)**, Secretariat, Porvorim – Goa.

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 19 OF 2011
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DR. RAKESH SAHNI, THROUGH P.O.A
MR. ANIL MISHRA ... Applicant

Versus

STATE OF GOA, THROUGH ITS CHIEF
SECRETARY AND 5 ORS., ... Respondents

Mr. H. D. Naik, Advocate for the applicants.
Mr. V. Rodrigues, Addl. Govt. Advocate for respondents No.1,2 and 4.
Ms. Norma Alvares, Advocate for respondent No.6.

Coram:- A. P. LAVANDE &
U. V. BAKRE, JJ.

Date:- 21st December, 2011

P.C.:-

Mr. Rodrigues appearing for respondents No.1, 2 and 4 states that the decision on the application filed by the applicant has not yet been taken, and the decision thereon will be taken within a period of three weeks and will be communicated to the applicant within one week thereafter.

S.O. 30th January, 2012.

A. P. LAVANDE, J.

U. V. BAKRE, J.

ssm.

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 19 OF 2011
IN
WRIT PETITION NO. 368 OF 2010

DR. RAKESH SAHNI, THROUGH P.O.A
MR. ANIL MISHRA ... Applicant

Versus

STATE OF GOA, THROUGH ITS CHIEF
SECRETARY AND 5 ORS., ... Respondents

Shri. A.N.S. Nadkarni, Senior Advocate with Mr. H. D. Naik,
Advocate for the applicant.
Mr.V. Rodrigues,Addl. Government Advocate for R.1,2, 4.

Coram:- A. P. LAVANDE &
U. V. BAKRE, JJ.

Date:- 15th November, 2011

P.C:

Mr. Rodrigues, learned Additional Government Advocate appearing for respondent nos.1,2 and 4 states that order on the application filed by the applicant will be passed by the respondent no.2 within a period of two weeks.

The statement is accepted.

Stand over to 7/12/2011.

A. P. LAVANDE, J.

U. V. BAKRE, J.

ap/-

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 19 OF 2011
IN
WRIT PETITION NO. 368 OF 2010

DR. RAKESH SAHNI, THROUGH P.O.A
MR. ANIL MISHRA ... Applicant

Versus

STATE OF GOA, THROUGH ITS CHIEF
SECRETARY AND 5 ORS., ... Respondents

Shri H. D. Naik, Advocte for the Applicant.
Shri V. Rodrigues, Additional Government Advocate for Respondent Nos.1, 2 and 4.
Ms. Norma Alvares, Advocate for Respondent No.6.

Coram:- A. P. LAVANDE &
SMT. R. P. SONDURBALDOTA, JJ.

Date:- 12th September, 2011

P.C.:-

Shri V. Rodrigues, learned Additional Government Advocate appearing for Respondent Nos.1, 2 and 4 states that the Goa Coastal Zone Management Authority would take appropriate decision by 22nd September, 2011.

Hence, stand over to 28th September, 2011.

A. P. LAVANDE, J.

SMT. R. P. SONDURBALDOTA, J.

RD.

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 19 OF 2011
IN
WRIT PETITION NO. 368 OF 2010

DR. RAKESH SAHNI, THROUGH P.O.A
MR. ANIL MISHRA ... Applicant

Versus

STATE OF GOA, THROUGH ITS CHIEF
SECRETARY AND 5 ORS., ... Respondents

Mr. A. N. S. Nadkarni, Senior Advocate with Mr. D. Lawande, Advocate for the applicant.
Mr. S. S. Kantak, Advocate General with Mr. V. Rodrigues, Addl. Government Advocate for respondent nos.1, 2, 4.
Ms. Norma Alvares, Advocate for respondent no.6.
Mr. K. Shahapurkar, Advocate for respondent no.3.

Coram:- S.A. BOBDE &
F. M. REIS, JJ.

Date:- 22nd June, 2011

P.C.

Mr. A. N. S. Nadkarni, learned Senior Counsel for the applicant states that the application for construction of residential house may be considered by the authority GCZMA.

2. Mr. S. S. Kantak, learned Advocate General submits that the application will be considered in accordance with law having regard to the earlier orders of this Court and the new law enacted vide CRZ notification issued in 2011 dated 6.1.2011.

3. The application may be considered and reasoned order may be given therein.

4. Stand over to 17th August, 2011.

4 weeks addl time

S.A. BOBDE, J.

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 368 OF 2010

DR. RAKESH SAHNI, THROUGH P.O.A
MR. ANIL MISHRA ... Petitioner

Versus

STATE OF GOA, THROUGH ITS CHIEF
SECRETARY AND 4 ORS., ... Respondents

Mr. A. N. S. Nadkarni, Senior Advocate with D. Lawande, Advocate for the Petitioner.
Mrs. Norma Alvares, Advocate for Respondent No.6.
Mr. V. Rodrigues, Additional Government Advocate for Respondent nos. 1, 2 and 4.
Mr. C. A. Ferreira, Asst. Solicitor General for Respondent No.5.

Coram:- D. G. KARNIK &
F. M. REIS, JJ.

Date:- 4th October, 2010

P.C.

1. Rule. No interim relief.

2. The learned Counsel for the respondent nos. 1, 2, 4, 5 and 6 waive service.

D. G. KARNIK, J.

F. M. REIS, J.

at*

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 368 OF 2010

DR. RAKESH SAHNI, THROUGH P.O.A
MR. ANIL MISHRA ... Petitioner

Versus

STATE OF GOA, THROUGH ITS CHIEF
SECRETARY AND 4 ORS., ... Respondents

Mr. A. N. S. Nadkarni, Senior Advocate with Mr. H. D. Naik, Advocate for the Petitioner.

Mr. V. Rodrigues, Addl. Government Advocate for Respondent No. 1, 2 & 4.

Mr. C. A. Ferreira, Asst. Solicitor General for Respondent No. 5.

Smt. Norma Alvares, Advocate for Respondent No. 6.

Coram:- D. G. KARNIK &
F. M. REIS, JJ.

Date:- 13th September, 2010

P.C.

Mr. A. N. S. Nadkarni, learned Senior Counsel contended that the land of the petitioner is a farm land which is used for the purpose of farming and petitioner only wants to construct a farm house therein.

2. We therefore, direct the respondents to carry out inspection of the land and submit a report as to the extent of the land and the extent of the farming activity going on in the land whether by way of agriculture or horticulture and number of trees standing on the land and their age.

3. The report shall be submitted within a week.

4. Stand over for a week i.e. 20.9.2010.

D. G. KARNIK, J.

F. M. REIS, J.

MF/-

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 368 OF 2010

DR. RAKESH SAHNI, THROUGH P.O.A
MR. ANIL MISHRA ... Petitioner

Versus

STATE OF GOA, THROUGH ITS CHIEF SECRETARY AND 4 ORS., ... Respondents

Mr. A.N.S. Nadkarni, Senior Advocate with Mr. H. D. Naik, Advocate for the Petitioner.
Mr. V. Rodrigues, Additional Government Advocate for the Respondent no.6.

Coram:- A. S. OKA &
F. M. REIS, JJ.

Date:- 16th August, 2010

P.C:

Judgment to be carefully studied

Judgment comprehensive appreciate CR2 III Cl(iii)

The learned counsel appearing for the Petitioner seeks time to carry out amendment.

Amendment to be carried out within a week.

The petition shall be placed on board on 26th August,2010.

A. S. OKA, J.

F. M. REIS, J.

Prayer A is a general direction - interplay of CR2 Notif.
- Pet. constr. is covered by judgement in WP 422/98
- Pet must wait till survey + enquiry is completed in order to ap/- ascertain the quota available for constr. dwelling house or flat in house or he calls it.
- Pet. wishes to construct under Cl.(iii) of CR2 III - Annexure I Cl. 6(2) CR2 III (ii)
- Para 13 of WP shows that Pet wishes to construct dwelling house.

Paras 10 – 13, 20, 30
Defn of dwelling unit – Para 14, 30
Restriction on property holding – Para 21

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 368 OF 2010

DR. RAKESH SAHNI, THROUGH P.O.A
MR. ANIL MISHRA ... Petitioner

Versus

STATE OF GOA, THROUGH ITS CHIEF
SECRETARY AND 4 ORS., ... Respondents

Mr. A.N. S. Nadkarni, Senior Advocate with Mr. H. D. Naik, Advocate for the Petitioner.
Mr. Vivek Rodrigues, Addl. Government Advocate for Respondent nos. 1, 2 and 4.
Mr. C. A. Ferreira, Asst. Solicitor General for Respondent no.5.
Ms. Norma Alvares, Advocate for Respondent no.6.

Coram:- A. S. OKA &
F. M. REIS, JJ.

Date:- 28th July, 2010

P.C.

When clause (E) of the Judgment and Order dated 13th October, 2006, passed by this Court in Writ Petition no. 422/1998 and Writ Petition no. 99/1999 was brought to the notice of the learned Senior Counsel appearing for the Petitioner, he seeks leave to amend for incorporating appropriate amendments and appropriate prayer.

2. Permission to amend the Petition is granted. Amendment to be carried out within one week. Petition to be placed on board after two weeks i.e. 16.08.2010.

A. S. OKA, J.

F. M. REIS, J.

arp/*

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 368 OF 2010

DR. RAKESH SAHNI, THROUGH P.O.A
MR. ANIL MISHRA ... Petitioner

Versus

STATE OF GOA, THROUGH ITS CHIEF
SECRETARY AND 4 ORS., ... Respondents

Mr. A.N.S. Nadkarni, Senior Advocate with Mr. H. D. Naik, Advocate for the Petitioner.
Mr. V. Rodrigues, Addl. Government Advocate for the Respondent Nos. 1, 2 and 4.

Coram:- A. S. OKA &
F. M. REIS, JJ.

Date:- 7th July, 2010

P.C.:-

Await service of notice of 3rd and 6th Respondents till 21st July, 2010. In the meanwhile, the Petitioner is permitted to serve the Respondents by private notice.

A. S. OKA, J.

F. M. REIS, J.

at*

No. J/ WP-368-10/ 9606 /10
Date : 22/06/2010

IN THE HIGH COURT OF BOMBAY AT GOA
PANAJI BENCH

WRIT PETITION NO. 368 OF 2010
(Under Article 226 of the Constitution of India)

Dr. Rakesh Sahni .. Petitioner
(Through Adv. H. D. Naik)

V/s

State of Goa through its Chief Secretary & 5 Ors., ... Respondents

From,
Assistant Registrar,
High Court of Bombay at Goa Panaji Bench

To,
3. The Village Panchayat of Mandrem
through its Sarpanch, Mandrem, Pernem Goa

6. Goa Foundation, through its Secretary
Dr. Clause Alvares,
having its office at Room No. 7,
above Mapusa Clinic, Mapusa Bardez Goa

Sir,

The Petitioner abovenamed having presented a petition to this Court under Article 226 of the Constitution of India, praying for reliefs as stated in the accompanying copy of the petition and the same having been registered in this Court as Writ Petition and this Court, having on 11/06/2010 ordered to issue notice, I have the honour to inform you that the matter will come up for **Admission on 5/07/2010 at 10.30 a. m. or thereafter on any day as per the convenience of this Court,** and that if no appearance is made on your behalf either in person or by an Advocate of this Court or an agent duly authorized and instructed by you, it will be heard and determined in your absence.

Coram : A. S. Oka & F. M. Reis, JJ.

P.C:

Heard the learned Senior Counsel appearing for the Petitioner. Learned Additional Government Advocate appearing for the first, second and fourth Respondents seeks time to take instruction.

Foundation (Petitioner in Writ Petition No. 422 of 1988) as a party Respondent. Issue notice to 3rd, 5th and added Respondents returnable on 5th July, 2010.

3. Learned Counsel appearing for the 5th Respondent waives service of notice.

By Order of the Court,

23/6/10

(G. M. Redker)
Assistant Registrar
High Court of Bombay
Panaji Bench (Goa)

Enclosures :- (i) Copy of the Petition
(ii)
(iii)

N.B. :- Attention is invited to Rules 11 and 13, Chapter XVII of the High Court Appellate Side Rules, 1960, which reads as follows :-

Rule 11 :- An answer to the rule nisi showing cause against such application shall be made by filing an affidavit in the Office of the Registrar and by serving a copy thereof upon the applicant or his Advocate or attorney, as the case may be, at least two days before the returnable date of the rule.

Rule 13 :- No further affidavit or affidavits shall be filed by any party except with the leave of the Court.

ep/-

801

Self

IN THE HIGH COURT OF BOMBAY AT PANAJI, GOA

Writ Petition No.368 of 2010

Dr. Rakesh Sahni } ...Petitioner

Versus

1) State of Goa & Ors } ... Respondents

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ADVOCATE
FOR THE PETITIONER

DATE : 20/04/2010
PLACE: Panaji, Goa.

(A)

IN THE HIGH COURT OF BOMBAY AT PANAJI, GOA

Writ Petition No. of 2010

Dr. Rakesh Sahni } ...Petitioner

Versus

1) State of Goa & Ors } ... Respondents

CHRONOLOGY OF DATES AND EVENTS

SR.NO.	DATE	EVENT
1.	18/05/2007	The Petitioner vide a registered Sale Deed purchased the property admeasuring an area of 12,000 square metres under Survey No.222/1 of Village Mandrem in Pernem Taluka for the purpose of horticulture and other plantation
2.	29/01/2009	The Petitioner applied to the Directorate of Settlement and Land Records, Government of Goa, for delineation of the CRZ Line in respect of the Petitioner's Property.

(B)

		Pursuant to the said letter, the Directorate of Settlement and Land Records vide letter dated 08/09/2009, informed the Petitioner that the landholding bearing Survey No.222/1-B situated at Mandrem Village falls partly within 200 metres of the High Tide Line and partly in the Zone of 200 to 500 metres from the High Tide Line extracted from the Certified CRZ Map of Mandrem Village.
3.	15/09/2009	The Petitioner applied to the Respondent No.2 asking as to whether a Farmhouse can be constructed in the Petitioner's said Property. In the said Application the Petitioner stated that the Petitioner's Property lay within the 'Orchard Zone' as per the Regional Plan of 2001 and a Farmhouse can be constructed in an Orchard Zone as the area of the property is more than 4,000

(C)

		square metres. Along with the said application the Petitioner forwarded the necessary Ownership documents and the Plan indicating the 200 metres of the High Tide Line vis-à-vis the Petitioner's property
4.	09/10/2009	The Respondent No.2 informed the Petitioner that the Petitioner's proposed Farmhouse falls within the CRZ-III Area and is thereby attracted by the directions of this Hon'ble Court issued in Writ Petition No.422/98 and Writ Petition No.99/99 dated 13/10/2006 and therefore the Respondent No.2 has also decided not to process such cases until further Orders/Directions of the Hon'ble Court.
5.	22/03/2010	As directed by the Respondent No.4 in the aforesaid Notice, the Petitioner's Authorised Representative appeared before

(D)

		the Respondent No.4 and presented the records.
6.	02/03/2010	The Petitioner addressed a letter to the Respondent No.2 wherein the Petitioner requested the Respondent No.2 to inform the Petitioner as to whether the Survey and Inquiry pursuant to the Directions issued by this Hon'ble Court was completed or not as considerable time had already elapsed since the Hon'ble High Court had issued the Direction in respect of the same.
7	09/03/2010	The Petitioner once again addressed a letter to the Respondent No.2 by way of a reminder as to whether the Survey and Inquiry as per the Directions issued by this Hon'ble Court had been completed or not. Till date the Petitioner has not been informed about the status of Survey/Inquiry by the Respondent No.2.

8.	20/04/2010	Since nothing was heard from the Respondent No.2 and being aggrieved by the communication dated 09/10/2009, of the Respondent No.2, the present Petition is being filed.

ADVOCATE
FOR THE PETITIONER

PLACE: Panaji, Goa
DATE : 20/04/2010

(F)

POINTS FOR DETERMINATION:

1) Whether the Respondent No.2 could not have declined to process the Petitioner's Application for construction of a Farmhouse for the reason that there are directions issued by this Hon'ble Court vide Judgement and Order dated 13/10/2006, when the said directions issued by this Hon'ble Court are not at all applicable for the construction of a Farmhouse?

2) Whether the refusal on the part of the Respondent No.2 to process the Petitioner's Application for construction of a Farmhouse is illegal, arbitrary; and unreasonable and is thus violative of the Petitioner's Fundamental Right guaranteed under Article 14 of the Constitution of India.?

1) Whether the directions issued by this Hon'ble are relates to, and is, applicable in the case of areas under the 'Settlement Zone' as it was dealing with construction activities in CRZ areas and construction of a Farmhouse in Orchard/ Plantation areas was not the subject matter of the said Writ Petitions?

ACTS AND RULES

1) Constitution of India
2) Environment (Protection) Act, 1986
3) Coastal Regulations Zone,1991

(G)

CASE-LAWS

Nil at the moment

DATE : 20/04/2010

PLACE: Panaji, Goa.

ADVOCATE
FOR THE PETITIONER

IN THE HIGH COURT OF BOMBAY AT PANAJI, GOA

Writ Petition No. /2010

IN THE MATTER OF NON-PROCESSING OF THE PETITIONER'S PROPOSAL FOR CONSTRUCTION OF A FARM HOUSE BY THE RESPONDENT NO. 2 IN VILLAGE MANDREM OF PERNEM TALUKA

AND

IN THE MATTER OF JUDGEMENT AND ORDER DATED 13/10/2006, PASSED BY THIS HON'BLE COURT IN WRIT PETITION NO. 422 OF 1998 AND WRIT PETITION NO. 99 OF 1999

AND

IN THE MATTER OF ARTICLES 14 AND 226 OF THE CONSTITUTION OF INDIA

Dr. Rakesh Sahni,
resident of Sahni Farm,
Kapashera, Bijwasan Road
New Delhi-110037,through his
Constituted Attorney
Mr. Anil Mishra,
resident of S-7, 2nd Floor,
Jairam Complex, Neuginagar,
Panaji, Goa – 403 001. ..... Petitioner

Versus

1. State of Goa,
Through it's Chief Secretary,
Secretariat, Porvorim, Goa.

2. The Goa Coastal Zone
Management Authority,
through its Member Secretary,
Department of Science,
Technology & Environment,
Opp. Saligao Seminary,
Saligao, Bardez, Goa.

3.The Village Panchayat of Mandrem
Through its Sarpanch,
Mandrem, Pernem, Goa

4. Town & Country Planning Dept.,
Government of Goa,
through the Chief Town Planner,
having Office at Patto Panaji, Goa.

5. The Ministry of Environment
& Forests, Government of India,
through its Director,
Paryavarn Bhavan,
CGO Complex, Lodhi Road,
New Delhi. ..... Respondents

(*the above addresses are registered addresses*)

TO

THE HON'BLE THE CHIEF JUSTICE

AND OTHER COMPANION JUDGES

OF THIS HONOURABLE COURT

THE HUMBLE PETITION OF THE PETITIONER ABOVE NAMED MOST RESPECTFULLY SHEWETH:

MAY IT PLEASE YOUR LORDSHIPS :

The Petitioner above named most respectfully states and submits as under:

1. The Petitioner by this Petition filed under Article 226 of the Constitution of India, challenges the communication dated 09/10/2009 addressed by the Respondent No.2 to the Petitioner wherein the Respondent No.2 has declined to process the Petitioner's Application for granting approval for the construction of a Farmhouse in the property under Survey No. 222/1-B of Village Mandrem in Pernem Taluka. The Petitioner is also seeking a Declaration from this Hon'ble Court that directions issued vide Judgement and Order dated 13/10/2006 in Writ Petition No. 422 of 1988 and Writ Petition No. 99 of 1999 are not applicable to the Petitioner's case and is further seeking direction to the Respondents to consider the Petitioner's proposal for construction of a Farmhouse in the aforesaid property in accordance with Law.

2. The Petitioner herein is a Medical Practitioner by profession and is the co-owner and in possession of the landed farm property admeasuring 12,000 square metres under Survey No.222/1-B of Village Mandrem in Pernem Taluka, which property has been purchased by the Petitioner for plantation and horticulture.

3. The Respondent No. 1 herein is the State of Goa. The Respondent No. 2 herein is the Goa Coastal Zone Management Authority (GCZMA) constituted under the Provisions of the Environment (Protection) Act, 1986, for the purpose of regulating the Provisions of the Coastal Regulations Zone

Notification of 1991 as amended from time to time. The Respondent no.3 herein is Village Panchayat constituted under the provisions of Goa Panchayat Raj Act,1993. The Petitioner states that the Respondent No.3 herein is the Town and Country Planning Department whose approval is also necessary for the construction of a Farmhouse; as such, the Respondent No.4 has been joined as a Party Respondent in the present Petition. The Petitioner states that the Respondent No.3 herein is the Ministry of Environment and Forests, Government of India.

4. The Petitioner states that vide a Registered Sale Deed dated 18/05/2007, the Petitioner herein along with his wife and daughter had purchased the Orchard property admeasuring an area of 12,000 square metres; the same being a part and parcel of a larger property known as 'BABGAUDO' under Survey No.222/1 of Village Mandrem in Pernem Taluka for the purpose of horticulture and other plantation. The Petitioner craves leave to refer to and rely upon the said Sale Deed as and when necessary.

5. The Petitioner states that after having purchased the said property from the erstwhile owners of the said land the Petitioner carried out the mutation in respect of the said property and accordingly, the Petitioner and the other co-owner's names have been duly recorded in the Occupants Column in Form I and XIV of the said property.

Hereto annexed and marked as ***'Exhibit A'*** is a copy of Form I and XIV in respect of the property in Survey No.22/1-B.

6. The Petitioner states that thereafter by an Application dated 29/01/2009 the Petitioner applied to the Directorate of Settlement and Land Records, Government of Goa, for delineation of the CRZ Line in respect of the Petitioner's Property. The Petitioner states that pursuant to the said letter, the Directorate of Settlement and Land Records vide letter dated 08/09/2009, informed the Petitioner that the landholding bearing Survey No.222/1-B situated at Mandrem Village falls partly within 200 metres of the High Tide Line and partly in the Zone of 200 to 500 metres from the High Tide Line extracted from the Certified CRZ Map of Mandrem Village. In the said letter it was further stated that the portion of the landholding situated on the Westward side of 200 metres falls within 200 metres from the HTL and the remaining portion of the landholding on the Eastward side of the 200 metre line falls within the Zone of 200 to 500 metres of the High Tide Line. The Petitioner states that along with the said letter the said Department also forwarded a copy of the Plan indicating the 200 metre High Tide Line.

Hereto annexed and marked as ***'Exhibit B'*** is a copy of the said letter dated 08/09/2009 along with the Plan.

7. The Petitioner states that on the Western side of the suit property lies a public road. The Petitioner states after the said public road, further up on the West, lies a band of landmass having a width of about 120 metres with the existing houses of the local inhabitants and is followed by another public road and thereafter is Ashwem Beach abutting the Arabian Sea. The Petitioner states the Petitioner's Property is thus clearly separated from the beach by two public roads with a landmass in between.

Annexed hereto and marked as ***'Exhibit C'*** is the Google Earth Satellite Image which clearly shows the Petitioner's Property is clearly separated from the beach by two public roads with a landmass in between.

8. The Petitioner states that the Petitioner's Property lies on the landward side of the public road it abuts as is shown in Exhibit C. The Petitioner states there are houses existing at about 100 metres from the High Tide Line demarcated by the Authority much closer to the coast then the Petitioner's Property and the said houses are scattered all over the place between the coast and the Suit Property.

9. The Petitioner states that the Petitioner's Property is not a beach property and is not in any manner connected to the beach but lies away from the beach well separated by two public roads and a band of landmass inhabited by local people;

therefore there is no question of the said dunes being damaged or flattened out or that the coastal ecosystem would be adversely affected.

10. The Petitioner states that the Petitioner's Property is within the permissible gradient which is below 25% and is well permissible for construction of a Farmhouse as per the Town and Country Planning Act 1974 as well as the Zoning Regulations applicable for permitting constructions below the level of 25 % of the slope which includes the contour levels of the site and the section drawn.

Annexed hereto and marked as ***'Exhibit D colly.'*** is a copy of the Contour Plan and Section Plan.

11. The Petitioner states that there are hardly any trees that fit into the definition of the word 'tree' which are likely to be affected if construction of the Farmhouse is undertaken. The Petitioner states the soil condition is laterite in nature and classification and will be suitable for carrying out plantation and horticulture.

12. The Petitioner states that the Regional Plan 2001 which is in force is a Statutory Plan and classifies the land use of the Petitioner's Property as 'Orchard' which permits the construction of a Farmhouse in case the property is 4,000 square metres or more. The Petitioner states that the portion of Petitioner's Property which is outside the 200 metre High Tide

Line is also more than 4,000 square metres is fit for construction of a Farmhouse.

Hereto annexed and marked as ***'Exhibit E'*** is a copy of the Zoning Certificate dated 18/03/2010 issued by the Town and Country Planning Department, Government of Goa.

13. The Petitioner states that the Petitioner intends to carry out farming in the said Property and for the said purpose intend to construct a Farmhouse as per the prevailing Regulations. The Petitioner states that the Petitioner has in fact purchased the said property for the purpose of carrying out farming and in order to carry out the farming activities, the Petitioner intends to construct a regular house of farmer therein which is permissible in terms of Law which also includes a provision for storage of the farm produce, implements, parking for car or tractor and residential quarters for persons looking the farm. Further the Petitioner needs to construct a road vis-à-vis the farmhouse which is a must to serve as an access to the farmhouse.

14. The Petitioner states that the Petitioner is aware that the Town and Country Planning Act and Regulations applicable are as per the local Rules and Regulations in force and the property fully satisfies all the criteria applicable for construction of a Farmhouse.

15. The Petitioner states that the Petitioner vide his Application dated 15/09/2009, applied to the Respondent No.2 asking as to whether a Farmhouse can be constructed in the Petitioner's Property. The Petitioner states that in the said Application the Petitioner stated very clearly that the Petitioner's Property lay within the Orchard Zone as per the Regional Plan of 2001 and a Farmhouse can be constructed in an Orchard Zone as the area of the property is more than 4,000 square metres. The Petitioner states that along with the said application the Petitioner forwarded the necessary Ownership documents and the Plan indicating the 200 metres of the High Tide Line vis-à-vis the Petitioner's property.

Hereto annexed and marked as ***'Exhibit F'*** is a copy of the said Application dated 15/09/2009.

16. The Petitioner states that pursuant to the said Application, the Respondent No.2 vide letter dated 09/10/2009, informed the Petitioner that the Petitioner's proposed Farmhouse falls within the CRZ-III Area and is thereby attracted by the Directions of this Hon'ble High Court issued in Writ Petition No.422/98 and Writ Petition No.99/99 dated 13/10/2006 which states that "till and until the Survey and Inquiry is completed ..... no new Licence for any type of construction in CRZ-III shall be issued or granted, and no new structure of whatsoever nature shall be allowed to be constructed in CRZ-III Zone." In the said letter the Respondent

No.2 further stated that the Respondent No.2 has also decided not to process such cases until further Orders/Directions of the Hon'ble High Court.

Hereto annexed and marked as ***'Exhibit G'*** is a copy of the letter of the Respondent No.2 dated 09/10/2009.

17. The Petitioner states that thereafter the Petitioner addressed a letter dated 02/03/2010 to the Respondent No.2 wherein the Petitioner requested the Respondent No.2 to inform the Petitioner as to whether the Survey and Inquiry pursuant to the Directions issued by this Hon'ble Court was completed or not as considerable time had already elapsed since the Hon'ble High Court had issued the Direction in respect of the same. The Petitioner states that in the said letter the Petitioner further requested the Respondent No.2 to furnish the said information on an urgent basis as the same was required as early as possible for processing of the Petitioner's proposal for construction of a Farmhouse.

Hereto annexed and marked as ***'Exhibit H'*** is a copy of the said letter 02/03/2010.

18. The Petitioner states that despite the said letter dated 02/03/2010, nothing was heard from the Respondent No.2; as such, the Petitioner once again addressed a letter dated 09/03/2010 to the Respondent No.2 by way of a reminder as to whether the Survey and Inquiry as per the Directions issued by

this Hon'ble Court had been completed or not. The Petitioner states that in the said letter the Petitioner also requested the Respondent No.2 to inform the Petitioner as to whether the Directions issued by this Hon'ble Court in Writ Petition No.422/98 and Writ Petition No.99/99 vide Order dated 13/10/2006 were applicable to the Petitioner's property which lay in the Orchard Zone.

Hereto annexed and marked as ***'Exhibit I'*** is a copy of the said letter dated 09/03/2010.

19. The Petitioner states that despite repeated requests from the Petitioner the Respondent No.2 has failed to inform the Petitioner as to the status of the Survey and Inquiry conducted by the Respondent No.2 pursuant to the Directions issued by this Hon'ble Court. The Petitioner states that as per the Directions of this Hon'ble Court the Respondent No. 2 was required to complete the Survey and Inquiry within the time bound directions. The Petitioner states that till date the Respondent No.2 has not informed the Petitioner of the status of the said Survey and Inquiry. The Petitioner states that even otherwise the Directions issued by this Hon'ble Court in Writ Petition No.422/98 and Writ Petition No.99/99 are not at all applicable for considering the Petitioner's proposal for construction of a Farmhouse.

20. The Petitioner states that the Petitioner's Property is not in any way connected to the beach but lies away from the beach well separated from two public roads and a band of landmass having existing traditional houses inhabited by people therefore there is no question of marine life or sand dunes being damaged or flattened out or that the coastal ecosystem would be adversely affected on account of construction of the Farmhouse being undertaken in that part of the Suit Property which is well beyond 200 metres of the High Tide Line.

21. The Petitioners state that in the said Order dated 13/10/2006, this Hon'ble Court among other Directions, was pleased to issue the following Directions with respect to the construction of Hotels/Resorts in CRZ-III Areas :-

> ***(D)*** *To identify the open plots in CRZ-III zone which are available for construction of hotels and to frame appropriate policy/regulation for utilisation thereof before they are being allowed to be utilised for such construction activities.*
>
> ***(E)*** *Till and until the survey and inquiry is completed, as directed above, no new licence for any type of construction in CRZ-III Zone shall be issued or granted, and no new structure of whatsoever nature shall be allowed to be constructed in CRZ-III zone, except repairs and renovation of the existing houses which shall be subject to the appropriate order on*

completion and result of the survey and inquiry to be held as directed above and this should be specifically stated in the licenses to be granted for the purpose of repairs and/or renovation of the existing houses.

22. The Petitioner states that the aforesaid Directions issued by this Hon'ble Court are not at all applicable for construction of a Farmhouse. The Petitioner states that as per the CRZ Notification, CRZ-III area means "the area upto 200 metres from the High Tide Line is to be earmarked as 'No Development Zone' (no construction shall be permitted within this Zone) except for repairs of existing authorised structures .....". "... However the following (uses/activities) may be permissible in this Zone – agriculture, horticulture, gardens, pastures, parks, playfields, forestry ...". The Petitioner states that from the aforesaid it is amply clear that farming activity can be carried out in the 'No Development Zone' also and such activity can very well be carried out within 200 to 500 meters of the High Tide Line.

23. The Petitioner states that the Petitioner's Property has been classified as 'Orchard Zone' as per the Regional Plan of 2001 prepared by the Government of Goa. The Petitioner states that if farming activity is permissible between 200 to 500 metres of the High Tide Line, then the infrastructure for carrying out farming activity such as shelter for storage of farm

produce and implements etc; and accommodation in the form of a Farmhouse are essential for farming activities.

24. The Petitioner states that as per the CRZ Notification the total Floor Area Ratio in CRZ-III Areas is 33 % of the total plot area with a maximum coverage of 16.50 % and maximum height permitted is 9m which means that about 83.50% of the land remains vacant. The Petitioner states that this Notification is aimed at controlling development in CRZ Areas and thereby protecting the coastal environment. The Petitioner states that if a Farmhouse is allowed, the Floor Area permitted would be only 5 % of the total area and the covered area would be only 2.50 % and maximum height permitted is 5.50m which means that 97.50 % of the Plot would remain vacant and open and even the height is reduced to 5.50m as against the permitted height of 9m and as such, the Farmhouse would be surely a more sustainable development then that provided in the Notification itself .

25. The Petitioner states that the upper limit of total covered area of 33 percent is made permissible in CRZ Notification in order to protect the coastal ecosystem. The Petitioner states that the relevant part of the CRZ Notification reads ....(iii) Construction/reconstruction of dwelling units between 200 to 500 meters of the HTL permitted so long it is within the ambit of traditional rights and customary uses such as existing fishing

villages and gaothans. Building permissions for such construction/reconstruction will be subject to the conditions that the total number of dwelling units shall not be more than twice the number of existing units; total covered area on all floors shall not exceeds 33 percent of the plot size; the overall height of construction shall not exceed 9 meters and construction shall not be more than 2 floors. Construction is allowed for permissible activities under the Notification including facilities essential for such activities. The Petitioner states that presumably this construction permitted only if the land is classified as a 'Settlement Zone' as per the Regional Plan 2001 governed by the Goa Town and Country Planning Act, 1974 in force. However the CRZ Notification itself does not state explicitly that such a land must be classified as a Settlement Zone for it to come under the ambit of the said clause.

26. The Petitioner respectfully submits that agricultural activity is permissible between 200 to 500 meters of the HTL in terms of the CRZ Notification and therefore the farming infrastructure such as farmhouse is very much permissible. The CRZ Notification is ambiguous and not clear with respect to the land falling under Orchard Zones and to that extent the provisions of the CRZ Notification has to be read down.

27. The Petitioner states that non-considering the Petitioner's Application for construction of farmhouse in the said property is

clearly violative of Petitioner's Fundamental Right guaranteed under Article 14 of the Constitution of India.

28. The Petitioner states that the Respondent No.2 ought to have at least processed the Petitioner's Application for construction of a Farmhouse and could not have merely rejected the Petitioner's proposal for construction of Farmhouse in view of the Directions issued by this Hon'ble Court as the Survey and Inquiry which has been directed by this Hon'ble Court is not applicable to the construction of a Farmhouse which is permissible as a part of agricultural activities. The Petitioner states that the Petitioner's property falls in 'Orchard Zone' and therefore the directions issued by this Hon'ble Court are not at all applicable.

29. The Petitioner thus being aggrieved by the impugned communication dated 09/10/2009 and the action of the Respondent No.2 in not processing the Petitioner's Application, the Petitioner prefers this Writ Petition challenging the same on the following amongst other Grounds which are taken in the alternative and without prejudice to one another:-

GROUNDS

(A) The Petitioner respectfully submits that the Respondent No.2 could not have declined to process the Petitioner's Application for the mere reason that there are Directions issued by this Hon'ble Court in Writ Petition No.49/1998 and W

Petition No.99/1999 vide Judgement and O
13/10/2006 as the Petitioner's proposal is for const
Farmhouse and therefore the said Directions issu
Hon'ble Court are not at all applicable for the const
Farmhouse.

(B) The Petitioner respectfully submits that th
Court by Judgement and Order dated 13/10/2006
the aforesaid Writ Petitions had clearly directed the Go
to expeditiously conduct the Survey and Inquiry and
the Respondent No.2 ought to have conducted and co
the Survey and Inquiry; and merely because the Respo
have failed to complete the said Survey and Inquiry withi
time granted by this Hon'ble Court, the same cannot
ground not to process the Application for construction
Farmhouse which falls beyond 200 metre the High T
Line.

(C) The Petitioner respectfully submits t agricultural
activity is permissible within 200 to 500 metre High Tide
Line then the infrastructure for carrying such farming
activity for storage of implements etc., also be
permissible.

(D) The Petitioner respectfully submits that irections
issued by this Hon'ble Court the Survey and ught to
have been conducted as expeditiously as poss should

have been concluded by 30/05/2007. However till date the Survey and Inquiry have not been concluded as the Report has not been submitted to this Hon'ble Court; and as such, the Proceedings have been inordinately delayed and the Petitioner has been put to great hardship as the Petitioner's proposal for construction of a Farmhouse has not been processed by the Respondent No.2 for the reasons as stated hereinabove and the construction of the Farmhouse in no way affects the ecosystem.

(E) The Petitioner respectfully submits that the Petitioner's property is not in any manner connected to the beach but lies away from the beach well separated by two public roads and a band of landmass inhabited by the local people and therefore the Respondent No.2 ought to have at least processed the Petitioner's Application till the Survey and Inquiry was concluded pursuant to the Directions issued by this Hon'ble Court.

(F) The Petitioner respectfully submits that the Honourable Supreme Court in the case of M/s Coromandel Automobiles has already directed the Respondents the Ministry for Environment and Forests to process Application of M/s Competent Automobiles directing the Authorities to examine as to whether construction of a hotel is possible at the site in accordance with Law.

(G) The Petitioner respectfully submits that the refusal on the part of the Respondent No.2 to process the Petitioner's Application for construction of a Farmhouse is illegal, arbitrary; and unreasonable and is thus violative of the Petitioner's Fundamental Rights guaranteed under Article 14 of the Constitution of India.

(H) The Petitioner states that the Directions were issued by this Hon'ble Court on 13/10/2006 and till date the Respondents have failed to submit before this Hon'ble Court, a Report of the Survey and Inquiry conducted by them.

(I) The Petitioner respectfully states that this Hon'ble Court's directions issued vide aforesaid Orders relates to, and is, applicable in the case of areas under the Settlement Zone as it was dealing with construction activities in CRZ areas. Construction of a Farmhouse in Orchard/ Plantation areas was not the subject matter of the said Writ Petition.

(J) The Petitioner respectfully submits that agricultural activity is permissible between 200 to 500 meters of the HTL in terms of the CRZ Notification and therefore the farming infrastructure such as farmhouse is very much permissible. The CRZ Notification is ambiguous and not clear with respect to the land falling under Orchard Zones and to that extent the provisions of the CRZ Notification has to be read down.

(J-1) The Petitioner respectfully states and submits that that the Farmhouse comes under 'agricultural activities'. The Petitioner respectfully submits that in terms of the CRZ Regulation of 1991, the agricultural activities are permissible within the CRZ-III area.

(J-2)The Petitioner respectfully states and submits that the issues involved in Writ Petition No.422/1998 and Writ Petition No.99/1999; were basically regarding constructions being undertaken in violation of the CRZ Notification in CRZ-III areas which fall within the 'Settlement Zone' and not in the 'Orchard Zone' and therefore directions as issued in para 32 (E) of the said Judgement that no new license for any type of construction in CRZ-III zone could not have been issued.

(J-3) ihe Petitioner respectfully states and submits that in any event of the matter, the Petitioner was not party to the said Writ Petitions and therefore the directions issued by this Hon'ble Court in the said Writ Petitions especially in para 32(E) is not binding on the Petitioner for construction of a Farmhouse.

The Petitioner respectfully states and submits that the Hon'ble Supreme Court in the case of M/s. Competent Automobiles Company Limited has already directed the Ministry of Environment and Forests, Government of India to take decision on the Application submitted by the said Company for construction of the Hotel Project in the CRZ-III area which is in fact falls in 'Settlement zone'.

(A-1) That this Hon'ble Court be pleased to modify the directions issued vide para 32(E) of Judgement dated 13/10/2006, passed by this Hon'ble Court in Writ Petition No.422/1998 and Writ Petition No.99/1999; and further clarify that the said directions are not applicable for construction of a Farmhouse in the CRZ-III area.

(J-1) The Petitioner respectfully states and submits that that the Farmhouse comes under 'agricultural activities'. The Petitioner respectfully submits that in terms of the CRZ Regulation of 1991, the agricultural activities are permissible within the CRZ-III area.

(J-2)The Petitioner respectfully states and submits that the issues involved in Writ Petition No.422/1998 and Writ Petition No.99/1999; were basically regarding constructions being undertaken in violation of the CRZ Notification in CRZ-III areas which fall within the 'Settlement Zone' and not in the 'Orchard Zone' and therefore directions as issued in para 32 (E) of the said Judgement that no new license for any type of construction in CRZ-III zone could not have been issued.

(J-3) ihe Petitioner respectfully states and submits that in any event of the matter, the Petitioner was not party to the said Writ Petitions and therefore the directions issued by this Hon'ble Court in the said Writ Petitions especially in para 32(E) is not binding on the Petitioner for construction of a Farmhouse.

(K) Any other and further grounds that may be urged at the time of the hearing of the Petition.

30. The Petitioner states that there are no delays or laches in filing the present Petition.

31. The Petitioner states that the Respondents have their offices in Goa and as such, this Hon'ble Court has jurisdiction to entertain the present Petition.

32. The Petitioner states that the Petitioner has not filed any other Petition before either this Hon'ble Court or the Supreme Court of India in respect of the subject matter of this Petition.

33. The Petitioner has paid a Court fee amounting to Rs.150.00 (Rupees One Hundred Fifty only).

34. The Petitioner therefore prays as under:

PRAYERS

(A) That this Hon'ble Court be pleased to issue a Declaration stating that the Directions issued by this Hon'ble Court in Writ Petition No.422/98 and Writ Petition No.99/99 vide Judgement and Order dated 13/10/2006 are not applicable to the Construction of a Farmhouse in Orchard Zones within 200 to 500 meters of HTL.

- Judgement in WP 422/98 extensively covers applicability of CRZ Notfy. to any buildings / structures in CRZ III areas in 200-500 m zone.
- Reading of judgement will show that this prayer is contrary to CRZ Notfy.

(B) That this Hon'ble Court be pleased to issue a Writ of Certiorari or a Writ in the nature of a Certiorari or any other appropriate Writ, Order or Direction calling for the records from the Respondent No.2 in respect of the Petitioner's proposal for construction of a Farmhouse in the Petitioner's property and after examining the legality, validity and propriety thereof, be pleased to quash and set aside the impugned communication dated 09/10/2009.

(C) That this Hon'ble Court be pleased to issue a Writ of Mandamus or a Writ in the nature of a Mandamus or any appropriate Writ or Direction commanding the Respondent No.2 to process and consider the Petitioner's proposal for construction of a Farmhouse in the property under Survey No.222/1-B of Village Mandrem in Pernem Taluka.

(D) That pending the hearing and final disposal of the present Petition this Hon'ble Court be pleased to direct and Order the Respondent No.2, Respondent no. 3 and Respondent no.4 to process the Petitioner's Application for construction of a Farmhouse so in Survey No.222/1-B of Village Mandrem in Pernem Taluka.

(E) For ad-interim ex-parte reliefs in terms of Prayer Clause (D).

(F) Any other Reliefs which this Hon'ble Court deems fit in the interest of justice.

PLACE: Panaji, Goa

DATE : 20/04/2010

PETITIONER
Through his constituted Attorney

Exhibit A

23

FORM I & XIV

नमुना नं. १ व १४

Date 21/10/2008

Page 1 of 1

Taluka Pernem

Survey No 229

Village MANDREM

Sub Div. No C

Name of the Field

Tenure

OFFICE OF THE MAMLATDAR PERNEM

Cultivable Area (Ha.Ars.Sq.Mtrs)

Dry Crop	Garden	Rice	Khajan	Kat	Morod	Total Cultivable Area
0000.00.00	0001.20.00	0000.00.00	0000.00.00	0000.00.00	0000.00.00	0001.20.00

Un-cultivable Area (Ha.Ars.Sq.Mtrs) अपिक क्षेत्र (हे.आर.चौ.मी .)

Pot-Kharab पोट खराब

Class (a)	Class (b)	Total Un-Cultivable	Grand Total	Remarks शेरा
0000.00	0000.00.00	0000.00.00	0001.20.00	

Assessment Rs. 0.00 आकार Foro Rs. 0.00 फार Predial Rs. 0.00 प्रदियाल Rent Rs. 0.00 रेंट

S.No.	Name of the Occupant	Khata No.	Mutation No.	Remarks
1	Dr Rakesh Sahni		11671	
2	Mr.Sushma Sahni &		11671	
3	Gargi Sahni		11671	

S.No.	Name of the Tenant	Khata No.	Mutation No.	Remarks
1	NIL			

Other Rights - इतर हक्क	Mutation No	Remarks
Name of Person holding rights and nature of rights: इतर हक्क धारण करणा-याचे नाव व हक्काचा प्रकार		
NIL		

Details of Cropped Area पिकाखालील क्षेत्राचा तपशील

Year	Name of the Cultivator	Mode	Season	Name of Crop	Irrigated	Unirrigated	Land not Available for Cultivation		Source of Irrigation	Remarks
							Nature			
	NIL									

End of Report

For any further inquiries, please contact the Mamlatdar of the concerned Taluka

CERTIFIED COPY

Copy issued on 21/10/08

Fee

Handed over on

T. R. 5 L. No. MPER/3429

Date

(EXHIBIT No. B)

No. 19/DSLR/Resurvey Cell/CRZ-Sea/47/08/59463
Government of Goa,
Directorate of Settlement &
Land Records, Panaji-Goa.

Date: 08/09/2009.

To

Mr. Rakesh Sahni,
Through his constituted Attorney
Mr. Anil Mishra,
r/o Rz-232, F-52 Block,
Raj Nagar-II, Palam colony,
New Delhi.

Sub: Delineation of CRZ line in property bearing Survey No. 222/1-B situated at Mandrem village of Pernem Taluka.

Sir,

With reference to your application dated 29/01/2009 in connection with the aboye cited subject matter, it is informed that the land holding bearing Survey No. 222/1-B situated at Mandrem village of Pernem taluka is partly falling within 200 mts. from High Tide Line and partly in the zone of 200mts to 500mts from High Tide Line extracted from certified CRZ map of Mandrem village of Pernem taluka. The portion of land holding situated on the westward side of 200 mts. line is falling within 200 mts. from High Tide Line and the remaining portion of the land holding situated on the eastward of 200 mts. line is falling in the zone of 200mts to 500mts from High Tide line.

Copy of plan showing aforesaid land holding and location of 200 mts line is annexed to this letter.

This supercedes earlier CRZ delineation issued by this office vide letter No. 19/DSLR/Resurvey Cell/CRZ-Sea/47/08/8568 dated 29/01/2009.

Yours faithfully

(Ajit Talaulikar)
Supdt. of Survey & Land Records
Panaji – Goa.

Enclosed :-

Copy to :
The Member Secretary,
Goa Coastal Zone Management Authority,
Saligao, Bardez – Goa.
with reference to his letter No.GCZMA/ NDZ/09-10/318 dated 25/08/2009,

'Exhibit - E'

(44)

29

TOWN AND COUNTRY PLANNING DEPARTMENT
PERNEM TALUKA BRANCH OFFICE
GOVERNMENT OF GOA

LAND USE/ZONING INFORMATION

Ref. No. MANDREM/02/222-1-B/PER/2010/87 Dated: 18/3/2010

As per the Regional plan of Goa 2001 A.D. the land use zoning of the property bearing Sy.No.222/1-B of village Mandrem of Pernem Taluka admeasuring area 12,000 m2 is as follows.

- Orchard Zone

This information is issued based on the application received from Shri Rakesh Sahni & others dated 15/3/2010 to be read with the note given below.

This information is valid only for Six months from the date of issue of this letter or revision of respective plan, whichever is earlier.

Processing fees Rs. 2000/- (Rupees two thousand only) paid vide challan No.04 dated 15/3/2010 issued by this office.

(R.N. Volvoikar)
Deputy Town Planner
Town and Country Planning Dept
Govt. of Goa.
Pernem - Goa.

To,

Shri Rakesh Sahni and Others

NOTE: The land use zone information provided is as per the Regional Plan/DDF/Zoning plan in force as on date of issue of the above information and shall not to be construed as N.O.C. in any form for undertaking any development including construction, Sub-Division etc.

Further any development shall be subject to provision of Tenancy Act, Land Use Regulation Act, Forest Conservation Act, Highway Act, Ancient Monuments and Archeological Sites and Remains Act, (State and Central), EIA notification issued by MOEF, Coastal Regulation Zone, including section 17- A of the T.C.P Act.

'Exhibit F'

(10)

(38)

From: Dr. Rakesh Sahni
C/o Constituted Attorney,
Anil Mishra,
S-7, Second Floor,
Jairam Complex,
Neuginagar
Panaji –Goa

Dated : 15.09.2009

To

The Member Secretary,
Goa Coastal Zone Management Authority,
Opp. Saligao Seminary, P.O. Saligao
Bardez, Goa-403511

Sub : Regarding construction of a Farm house in my property bearing survey no. 222/1-B at Mandrem Village of Pernem Taluka from CRZ point of view.

Dear Sir,

With reference to the above cited subject, kindly let me know if I can construct a Farm house in my property bearing survey no. 222/1-B at Mandrem Village.

The said property bearing survey no. 222/1-B at Mandrem Village lies within the Orchard Zone as per the old Regional plan 2001 and Farm house can be constructed in Orchard Zone as the area of my property is more than 4000sq.mtrs under prevailing Town & Country Planning Rules & Regulation in-force.

Further my property is also situated between 200 and 500m CRZ line.

In lieu of my above request I have enclosed my ownership documents and the Plan showing 200m CRZ line and my property.

Waiting for your reply,

Thanking you,

Yours truly,

Anil Mishra
Constituted Attorney for Dr. Rakesh Sahni

15/09/09

Member Secretary
Goa Coastal Zone Management Authority
C/o. Dept. of Science, Technology & Environment
Saligao, Bardez, Goa- 403511

'Exhibit G'

(31)

GOA COASTAL ZONE MANAGEMENT AUTHORITY

C/o Department of Science, Technology & Environment.
Opp. Saligao Seminary, P.O. Saligao, Bardez, Goa – 403 511
Phone: (0832) 2407186, 2407187, 2407189 Fax: (0832) 2407186

Ref. No. GCZMA/N/09-10/30/ 422 *Dated:* 09/10/2009

To,

Dr. Rakesh Saini,
C/o Constituted Attorney (Anil Mishra),
S-7, Second Floor, Jairam Complex,
Neuginagar, Panaji-Goa.

Sub: Proposed construction of a Farm house in Survey No.222/1-B of Mandrem village, Pernem Taluka.

Sir,

With reference to your proposal dated 15/09/2009 above mentioned subject, it is informed that your proposed Farm house falls in the CRZ-III and thereby attracted by the directions of the Hon'ble High Court in W.P. No. 422/98 and W.P. No. 99/99 dated 13/10/2006, which state that ["till and until the survey and inquiry is completed,..... no new licence for any type of construction in CRZ-III zone shall be issued or granted, and no new structure of whatsoever nature shall be allowed to be constructed in CRZ-III zone"].

GCZMA has also decided not to process the such cases until further order/directions of the Hon'ble High Court.

Yours faithfully,

(Michael M. D'Souza)
Member Secretary, GCZMA &
Director/Ex-Officio, Jt.Secy. (STE)

'Exhibit H'

32

From: Dr. Rakesh Sahni
C/o constituted Attorney: Anil Mishra
S-7, second floor, Jairam complex
Neugi Nagar.
Panaji- Goa.

Dated : 2.3.2010

To

The Member Secretary
Goa Coastal Zone Management Authority
Opp. Saligao Seminary. P.O. Saligao
Bardez Goa – 403511

Sub: Regarding your letter dated 9.10.2009, regarding the proposed construction of a farm house in survey no. 222/1-B of Mandrem Village, Pernem Taluka.

Ref: my application dated 15.9.2009

Dear Sir,

With reference to the above cited subject, you had decided not to process my proposal of construction of a farm house in my property bearing survey no. 222/1-B of Mandrem Village, Pernem Goa, citing the reason that till and until the Survey and inquiry is completed, no new licence for any type of construction in CRZ III shall be issued or granted in the wake of direction of the Hon'ble High Court on W. P. No. 422/98 and W.P. No. 99/99 dated 13.10.2006.

In lieu of the above, kindly let me know if the said survey and inquiry is completed or not, I suppose that the said survey and inquiry must have been completed by now as considerable

02/03/10
O/o the Member Secretary,
Go... Zone Management Authority.
C/o. ... Science, Technology & Environment
Saliga... ...ao, Goa - 403511.

33

time has elapsed since the Hon'ble High Court issued the direction in respect of the same.

I therefore request you to furnish me the aforesaid information on the urgent basis as the same is required by me to process my proposal of farm house as early as possible.

Thanking you,

Yours truly,

(Anil Mishra)
C/o constituted Attorney for Dr. Rakesh Sahni

Encl: Copy of my application dated 15.9.2009
Copy of your letter dated 9.10.2009

'Exhibit - I'

(7)
34

From : Dr. Rakesh Sahni
c/o constituted Attorney : Anil Mishra
S-7 , second floor , Jairam Complex,
Neuginagar, Panaji-Goa.
Dated: 9.03.2010

To,
The Member Secretary,
Goa Coastal Zone Management Authority ,
Opp. Saligao Seminary .P.O.Saligao,
Bardez Goa- 403511

Sub: Reminder to my letter dated 2.3.2010 regarding the proposed construction of a farm house in survey no.222/1-B of Mandrem Village , Pernem Taluka , Goa.

Dear Sir ,

With reference to the above , I have written to you letter dated 2.3.2010 requesting you to furnish me the information on whether the survey and inquiry is completed as per the directions of the Hon'ble High Court in the Writ Petition no. 422/98 and Writ Petition no.99/99 dated 13.10.2006 .

In lieu of the above, I would like to once again remind you to reply me within 7 days whether the such survey and inquiry is completed or not as per the directions issued by the Hon'ble High Court in the WP no. 422/98 and WP no.99/99 dated 13.10.2006 .

Further kindly let me know if the directions of the Hon'ble High Court in the WP no. 422/98 and WP no.99/99 dated 13.10.2006 are also applicable to my property bearing Survey No. 222/1-B of Mandrem Village which lies in Orchard Zone.

O/o. the Member Secretary,
Goa Coastal Zone Management Authority,
C/o. Dept. of Science, Technology & Environment,
Saligao, Bardez, Goa - 403511.

(35)

I require the aforesaid information urgently to seek further remedies to avail approvals for my farmhouse in the said property.

Thanking you ,

Yours truly,

(Dr. Rakesh Sahni)

Through Constituted Attorney. Anil Mishra.

Enclosed : copy of letter dated 2.3.2010 with other enclosures

IN THE HIGH COURT OF BOMBAY AT PANAJI, GOA

Writ Petition No. of 2010

Dr. Rakesh Sahni } ...Petitioner

Versus

1) State of Goa & Ors } ... Respondents

AFFIDAVIT

I, Anil Mishra, aged about 42 years, Indian National, Constituted Attorney of the Petitioner abovenamed, presently residing at S-7, 2nd Floor, Jairam Complex, Neuginagar, Panaji, Goa, do hereby on solemn affirmation state as under:

1. I state that the Petitioner abovenamed has filed today the accompanying Writ Petition before this Hon'ble Court seeking certain reliefs therein.

HIGH COURT OF BOMBAY AT GOA PANAJI

2. I state that the contents of paras 1 to 21, 30, 31, 32 and 33 is true and correct to my knowledge and whatever has been stated in the remaining paragraphs are in the form of legal submissions based on legal advice which I believe to be true and correct.

37

3. I state that the Annexures to the Petition are true copies of the originals.

4. I state that the reliefs prayed for by the Petitioner kindly be granted by this Hon'ble Court.

I state that whatever has been stated hereinabove is true and correct.

Solemnly affirmed at Panaji, Goa }
this 20th day of April, 2010 } **DEPONENT**

Identified by me:-

Solemnly affirmed before me by Mr. Anil Mishra who is identified before me by Adv. Mr. H. D. Naik whom I personally know.

Dated this 20th day of April 2010.

Section Officer
High Court of Bombay at Goa
Panaji, Goa

BOMBAY AT GOA
PANAJI

IN THE HIGH COURT OF BOMBAY AT GOA, PANAJI

Writ Petition No. 368 of 2010

Dr. Rakesh Sahni, through P.O.A. Mr. Anil Mishra ..... Petitioner

v/s

State of Goa, through its Chief Secretary and 4 others ..... Respondents

AFFIDAVIT

I, Shri Michael M. D'Souza, aged 34 years, functioning as Member Secretary, Goa Coastal Zone Management Authority (GCZMA), at the Department of Science, Technology and Environment (DSTE), having its Office at Saligao-Goa ; do hereby solemnly state and affirm as follows:-

1. I say that, I am authorized to file the Affidavit on behalf of GCZMA who is Respondent No. 2 in the said Writ Petition.

2. I say that, I am filing the present Affidavit for the limited purpose for placing on record the Site Inspection Report on the status of the land belonging to the Petitioner in Survey No. 222/1-B on Mandrem Villlage, Pernem Taluka.

I say that, I am not dealing with all the contentions raised / averments made by the Petitioners and that nothing should be held to have been admitted by the Respondent which has not been specifically denied or admitted. I crave leave to file a further detailed Affidavit-in-reply dealing with all the contentions raised / averments made in the present petition, in due course.

3. I say that, the Hon'ble High Court by its Order dated 13-09-2010 has directed, "*...the respondents to carry out inspection of the land and submit a report as to the extent of the land and the extent of the farming*

activity going on in the land whether by way of agriculture or horticulture and number of trees standing on the land and their age."

4. I say that, as directed by the Hon'ble High Court, Respondent No. 2 has conducted the Site Inspection on 17-09-2010. A Report has been prepared providing all details on the status of the said land.

Annexed herewith is the copy of the Report dated 17-09-2010.

5. I say that, it is humbly requested that the Report may be considered by the Hon'ble High Court.

6. I do hereby verify and solemnly declare that the contents of para No. 1 to 5 are true to my knowledge and based on records available in my Office.

Solemnly affirmed at Panaji – Goa on this 18th day of September in the year 2010

Respondent No. 2

Identified by me

Adv. Norma Alvares
40

REPORT ON THE STATUS OF THE LAND IN SURVEY NO 222/1-B OF MANDREM VILLAGE, PERNEM TALUKA AT ASHWEM, MANDREM – GOA.

Background of the Case:

1. One Dr. Rakesh Sahni through his Constituted Attorney, Shri Anil Mishra vide a letter dated 15/09/2009, has requested for construction of a Farm House is his property bearing Survey No. 222/1-B at Mandrem Village. In his application he has stated that the property lies in the Orchard Zone as per the Old Regional Plan 2001 and a farm house can be constructed in Orchard Zone as the area of the property is more than 4,000 sq. mts. and hence permitted under the prevailing Town and Country Planning Rules. He further stated that his property is situated between 200 mts. – 500 mts. from the High Tide Line (HTL).

2. The Goa Coastal Zone Management Authority (GCZMA) vide a letter dated 09/10/2009, informed the said Dr. Rakesh Sahni that the proposed farm house falls in CRZ-III area of Mandrem Village, Pernem Taluka and therefore attracts directions of the Hon'ble High Court of Bombay at Goa, Panaji Bench in Writ Petition No. 422 of 1998 and Writ Petition No. 99 of 1999 dated 13/10/2006. In view of the same, it was informed to the said Dr. Rakesh Sahni, that GCZMA has taken a decision not to process such cases until further orders/directions of the Hon'ble High Court.

3. Dr. Rakesh Sahni through his Power of Attorney, Shri Anil Mishra has approached the Hon'ble High Court of Bombay at Goa, Panaji Bench in Writ Petition No. 368 of 2010.

4. The Hon'ble High Court of Bombay at Goa vide its directions dated 13/09/2010 has directed *"...the respondents to carry out inspection of the land and submit a report as to the extent of the land and the extent of the farming activity going on in the land whether by way of agriculture or horticulture and number of trees standing on the land and their age."*

The Hon'ble High Court has issued these directions as the Counsel for the petitioner had contended *".....that the land of the petitioner is a farm land which is used for the purpose of farming and petitioner only wants to construct a farm house therein."*

Site Inspection Details

5. Pursuant to the directions of the Hon'ble High Court as stated in para (4) above, the undersigned Member Secretary (GCZMA) has undertaken an inspection of the land on 17/09/2010 from 11:30 hrs. to 13:00 hrs. The inspection team consisted of the following:-

1. Dr. Mohan Girap, Project Scientist (Geology) of Goa State Council for Science & Technology (GSCST) and
2. Shri Anil A. de Noronha, Zonal Agricultural Officer, Pernem Taluka.

Shri Anil Mishra, Power of Attorney for the said Dr. Rakesh Sahni was present at the site during inspection.

The services of the Zonal Agricultural Officer were specifically requested to ascertain the type of farming activity, the type and number of trees and their age in the said property.

6. It is observed that there exists one built-up structure of lateritic stones with tile roof approximately admeasuring 3 mts x 5 mts at the entrance of the plot. The entire plot is bounded by a permanent foot-wall with fencing. The land is characteristically lateritic and rocky in nature and is gently sloping. There is a well dug out near the structure in the plot and one bore well has been dug and irrigation network through pipes is provided. There are 2 water tanks each of 5,000 litres capacity which is situated on a pedestal on the top eastern side of the property. Next to the boundary fencing of the plot ornamental plants namely phycus and ornamental small palms have been planted.

7. The site was further inspected and around 135 Coconut palms trees, which are 01 to 02 years old were counted. The power of attorney Shri Anil Mishra informed that there are 200 such trees and not 135 as counted. He informed that recently they have planted 24 Coconut tree saplings and 80 Arecanut saplings. The inspection team has counted 40 Arecanut tree saplings and 31 Coconut tree saplings in the plot.

The saplings have been recently planted during the past week and as the site inspection was going on 02 (two) workers were seen planting Arecanut saplings.

There are few Cashew trees spread around the plot with a few characteristic date palms, which are old trees, which appear to be existing in the plot for a long time. Shri Anil Mishra claims that there are in all 39 such Cashew trees. These trees are mostly situated on the southern side of the plot, could not be counted as the area is bushy and not fully accessible. At the entrance of the plot where the permanent structure and well is situated there are some Banana plants.

Arecanut – not a Coastal crop

8. The said property is gently sloping from the east to the west and it is seen that the land is terraced and mud/soil has been put for the purpose of land filling for the plantation carried out. An area of approximately 20 mts. x 40 mts. on the western side of the property is kept vacant.

The site inspection ended at around 13:00 hrs. The photographs taken at the site are appended to this report.

Observations and Comments

9. The said property in Survey No. 222/1-B falls in CRZ-III of Mandrem Village of Pernem Taluka, as per the Coastal Zone Management Plan of Goa dated 27/09/1996.

In CRZ-III areas between 200mts. – 500 mts, construction/re-construction of dwelling units is permitted so long it is within the ambit of traditional rights and customary uses such as existing fishing villages and gaothans. (Annexure I, Clause 6(2), CRZ-III (iii) of CRZ Notification, 1991).

Also construction of hotels/beach resorts for temporary occupation of tourists/visitors subject to certain conditions is a permissible activity. (Annexure I, Clause 6(2), CRZ-III (ii) of CRZ Notification, 1991)

Also re-construction/alterations of existing authorised buildings is permitted subject to certain conditions. (Annexure I, Clause 6(2), CRZ-III (iv) of CRZ Notification, 1991).

10. It is thus, seen that construction of a farm house is not amongst the permissible activity as defined under CRZ Notification, 1991.

11. By the Judgement of the Hon'ble High Court in Writ Petition No. 422 of 1998 and Writ Petition No. 99 of 1999 dated 13/10/2006; the Hon'ble High Court has put a complete ban on the aforesaid permissible activities as detailed in para (9) above, except for repairs and renovations of the authorised existing structures in CRZ-III areas of the state.

Further the Hon'ble High Court in MCA No. 541 of 2009 in Writ Petition No. 422 of 1998 dated 08/07/2010, has directed the Coastal Village Panchayats to comply with the directions as per its orders in Writ Petition No. 422 of 1998 and Writ Petition No. 99 of 1999 dated 13/10/2006. The Hon'ble High Court has also directed that State Government to comply with certain orders. Time has been granted for further period of 06 months and a report has to be filed before 15/03/2011.

Farmhouse - Pernem

12. From the site inspection details it is concluded that the land of the petitioner Dr. Rakesh Sahni in Survey No. 222/1-B is not a farm land which is used for the purpose of farming, as contended by the Counsel for the petitioner. It is seen that plantation activity of Coconut trees and Arecanut trees has been carried out by filling in soil and most of the plantation has been recently carried out. Along the boundary of the plot ornamental plants like phycus and ornamental palms have been planted.

Not farm land

13. From the records in the GCZMA office it is seen that an application had been made by the said Shri Rakesh Sahni to Directorate of Settlement and Land Records (DSLR), Panaji seeking correction / fresh delineation of 200 mts. of CRZ line in respect of the said property. On 25/05/2009, a site inspection was carried out by Dr. A. G. Untawale, Expert Member (GCZMA) alongwith officials of DSLR.

During the site inspection GCZMA Expert Member has noted that the topography of the land is lateritic and rocky and there is natural bushy vegetation at the site.

From these records and site inspection carried out on 17/09/2010 it is seen that the land in question in not a farm land and land development and like construction of boundary foot-wall with fencing, construction of permanent structure at the entrance of the plot, digging of a well and bore well, terracing the land, putting in soil for the purpose of planting sampling, (most of which is are ornamental in nature) has been carried out without due authorisation / permissions from the Authorities concerned.

Unauthorised

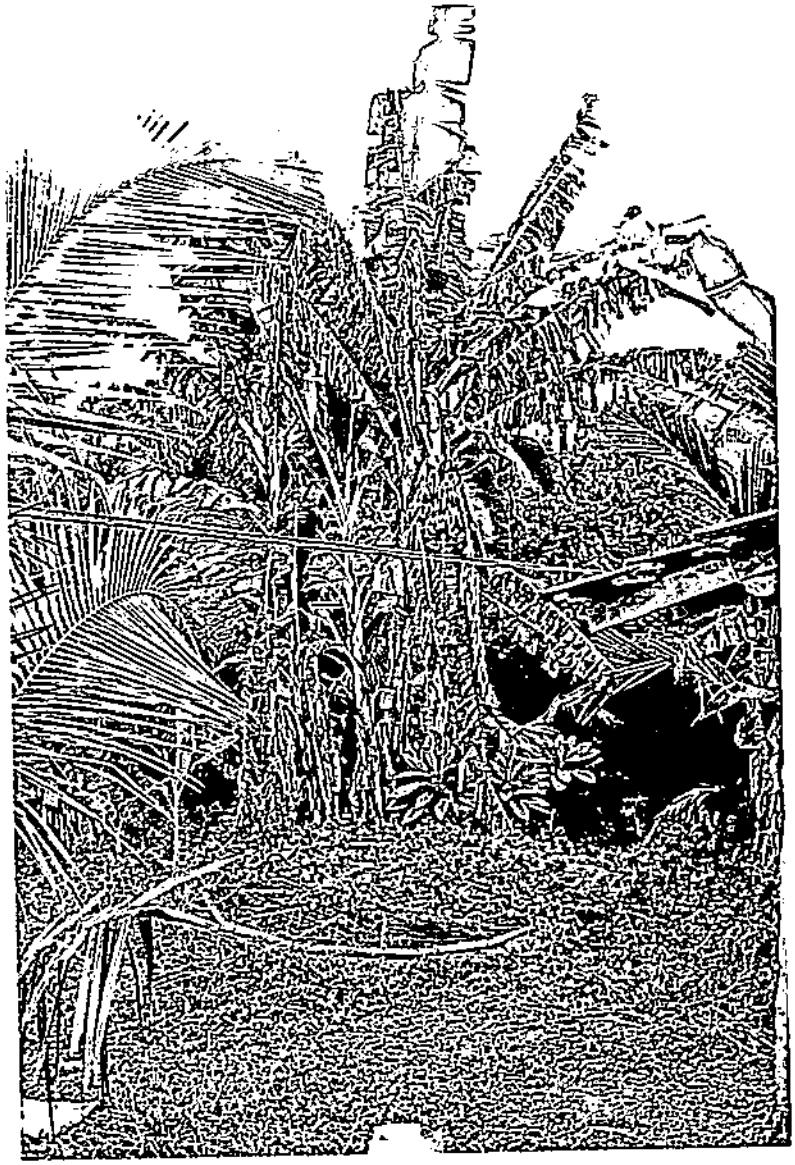
14. As detailed above the construction of the permanent structure (which is having electricity connection), drawing of groundwater, boring a bore well construction of boundary foot-wall with fencing and changing the nature and terrain of the land has been carried out illegally in violation of CRZ Notification, 1991 and the orders of the Hon'ble High Court.

CRZ Violation

15. With the above observations, the Report is submitted before the Hon'ble High Court as per its direction dated 13/09/2010.

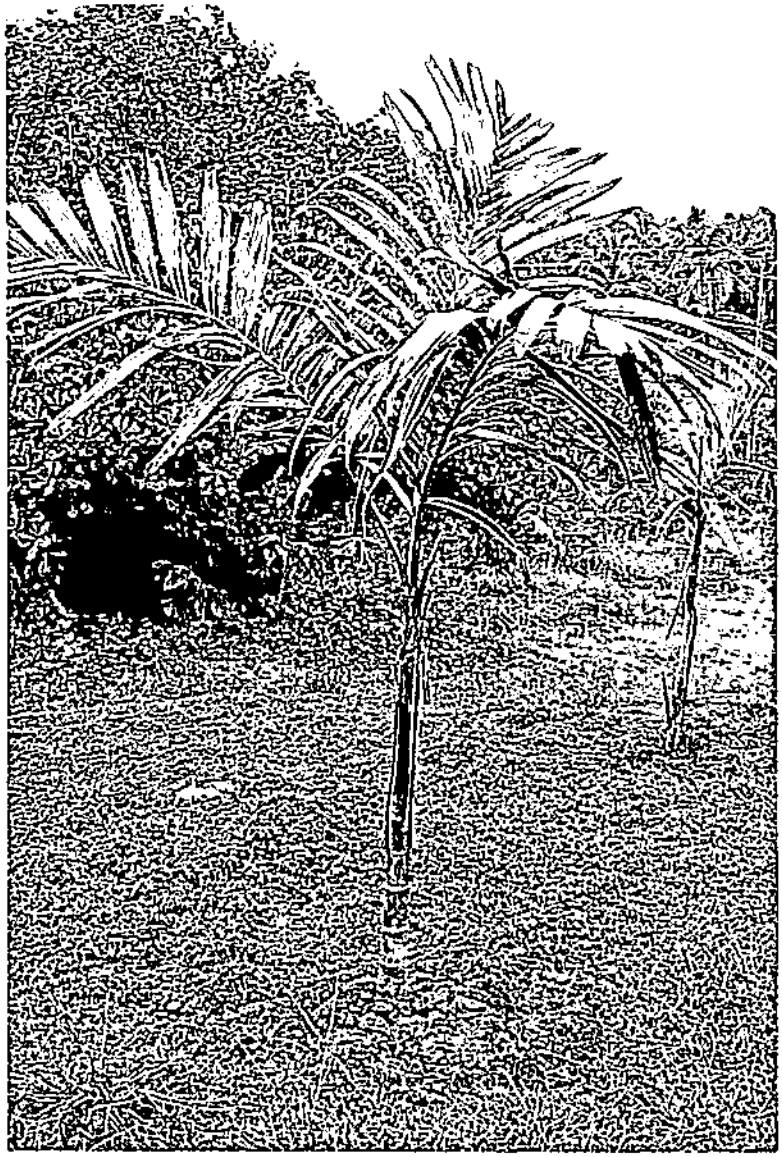
Place: Saligao-Goa.
Date: 17th September, 2010

(Michael M. D'Souza)
Member Secretary, GCZMA &
Director / Ex-Officio Jt. Secy. (STE)



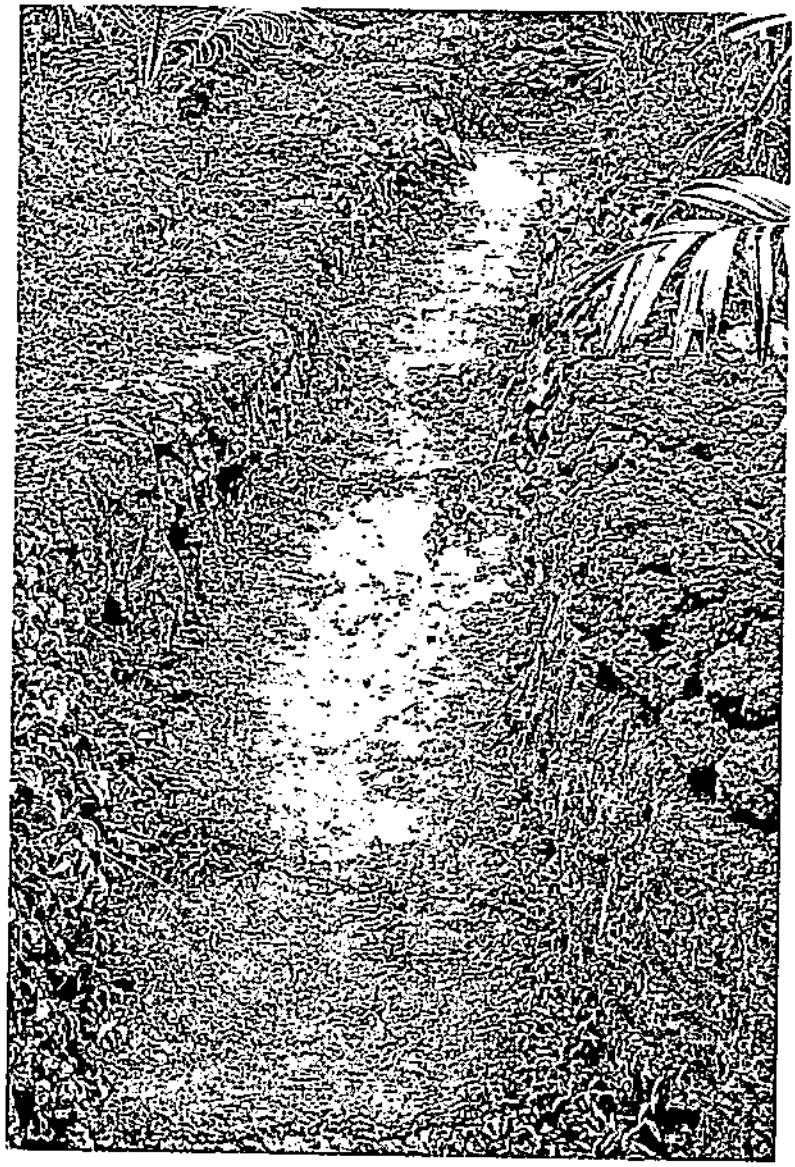
1. WELL NEAR THE STRUCTURE WITH FEW BANANA PLANTS

2. BORE WELL CONNECTED TO THE IRRIGATION NETWORK.

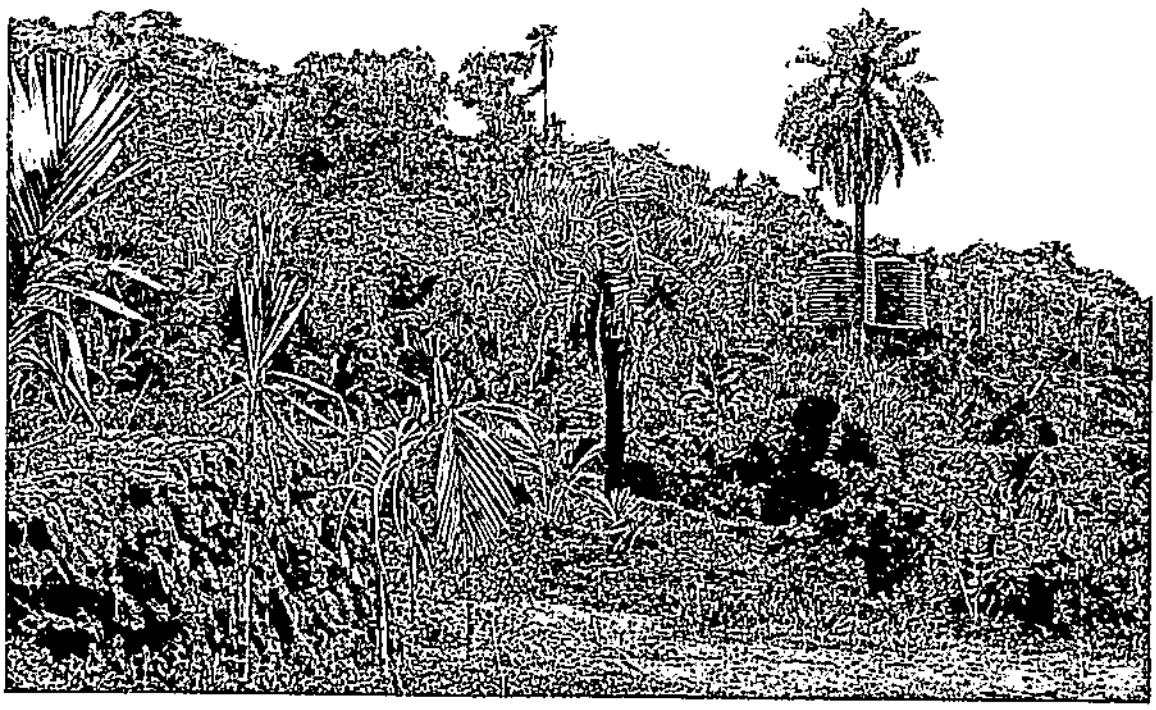


3. RECENTLY PLANTED AERACANUT SAPLING

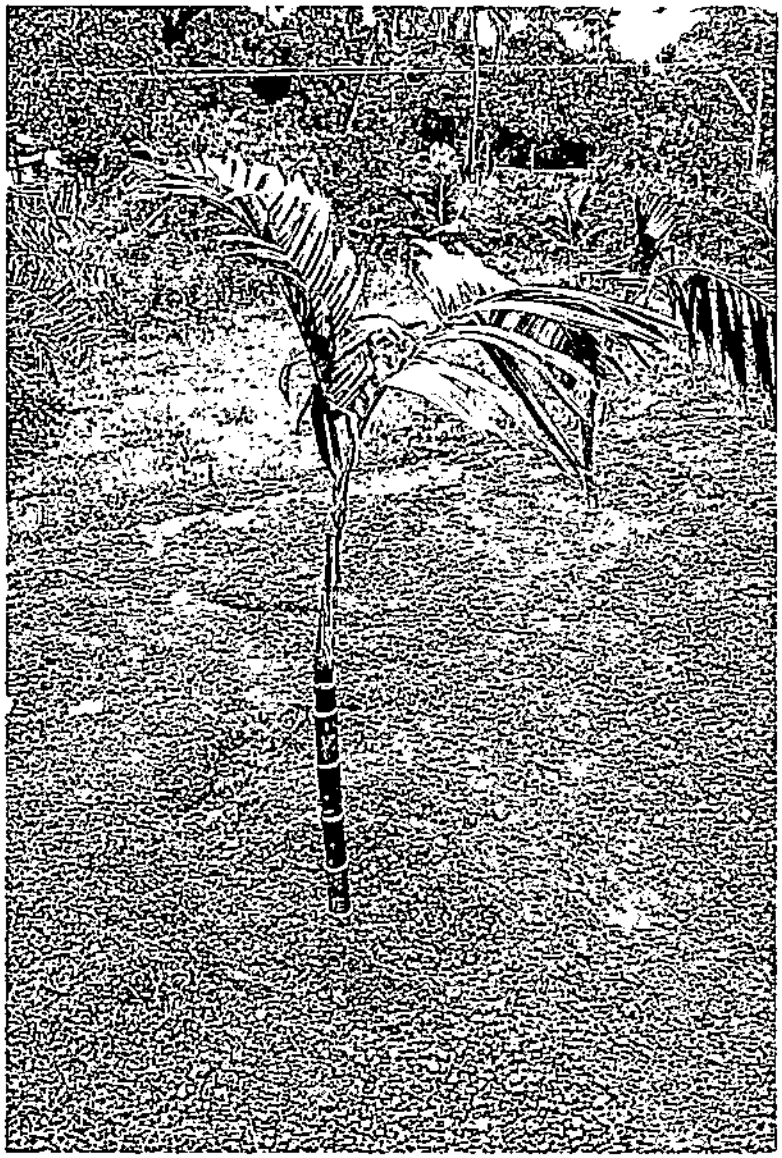
4. RECENTLY PLANTED COCONUT SAPLING



5. LAND DEVELOPMENT DONE FOR WATER CHANNELING

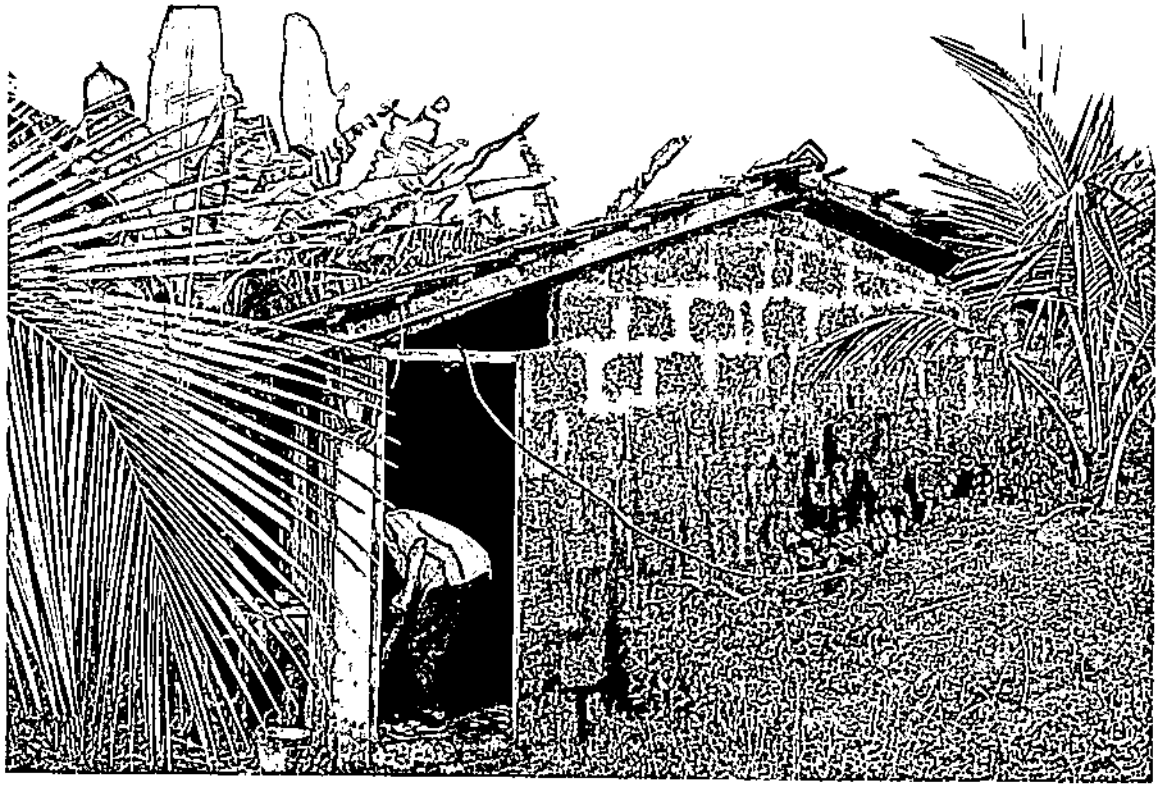


6. 02 WATER TANKS, HILL SLOPE TERRACING WITH STONE PITCHING AND RECENTLY PLANTED SAPLINGS.



7. SOIL FILLING DONE FOR CULTIVATION PURPOSE AND SAPLINGS PLANTED LAST WEEK

8. RECENTLY PLANTED SAPLINGS

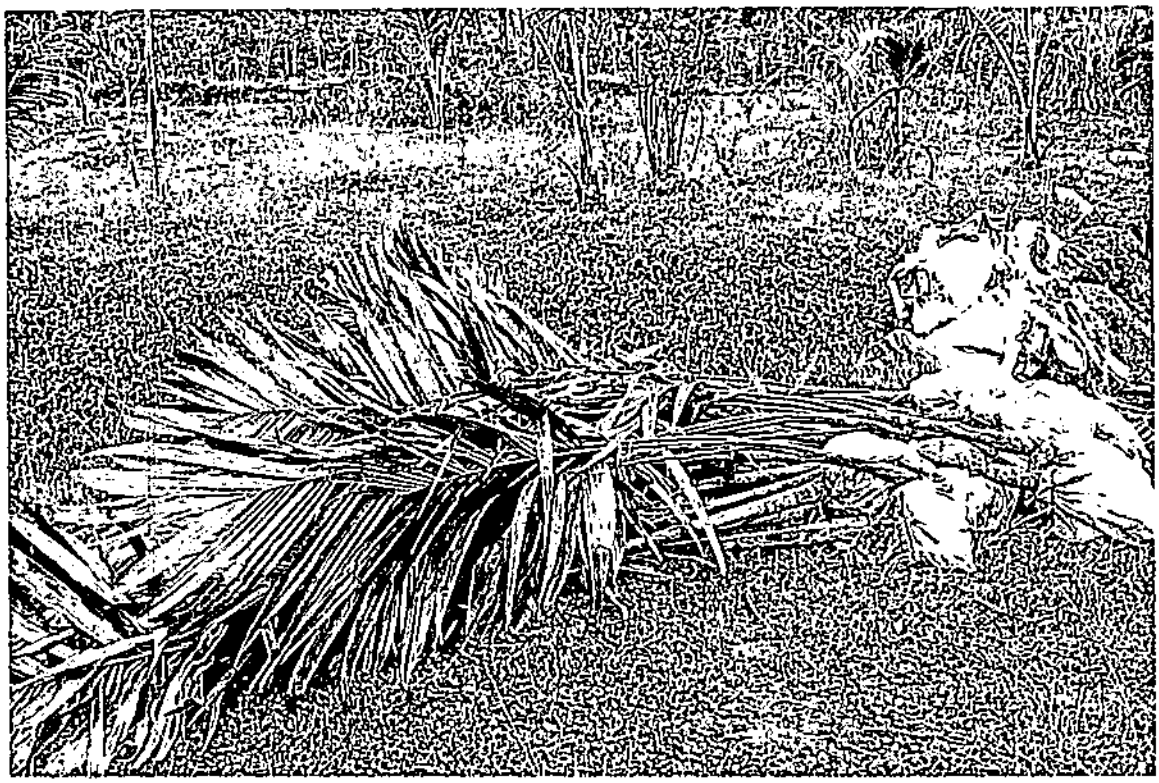


9. STRUCTURE OF LATERITIC STONES & TILE ROOF AT ENTRANCE OF THE PROPERTY.

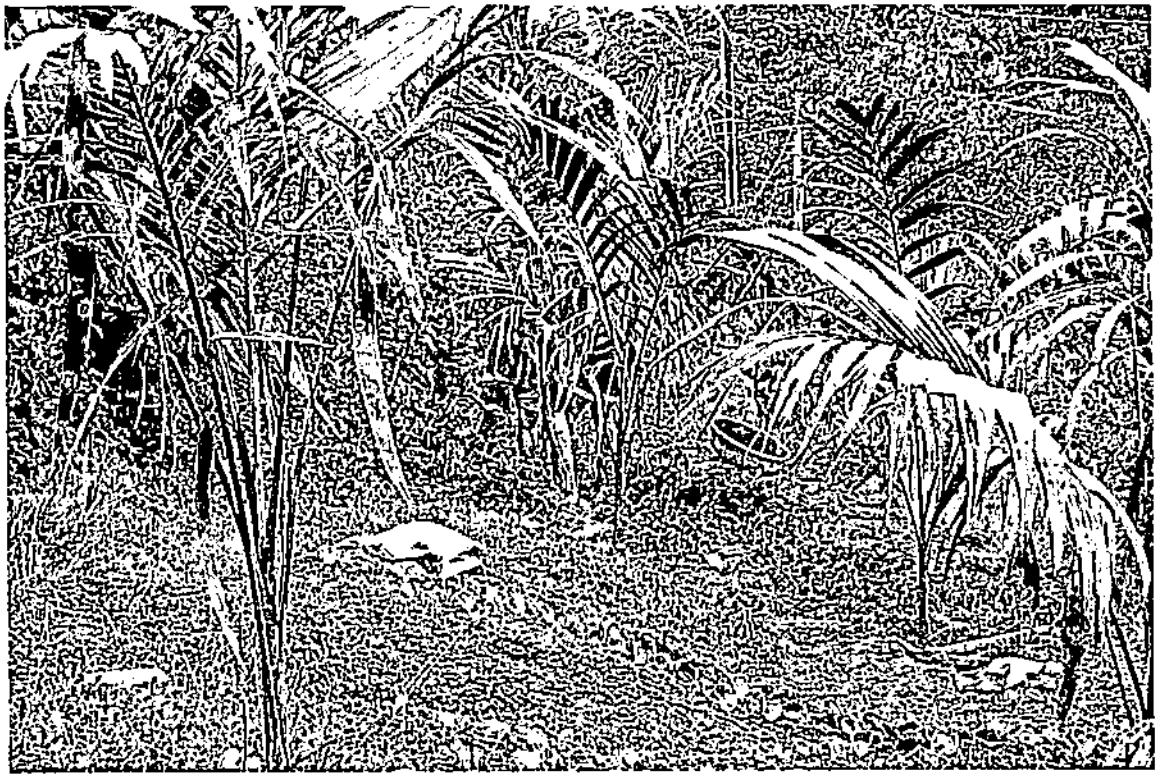
10. BOUNDARY WALL WITH FENCING AND PLANTATION OF ORNAMENTAL PLANTS ('PHYCUS')

11. RECENTLY PLANTED COCONUT SAPLINGS

12. RECENTLY PLANTED AERACANUT SAPLINGS

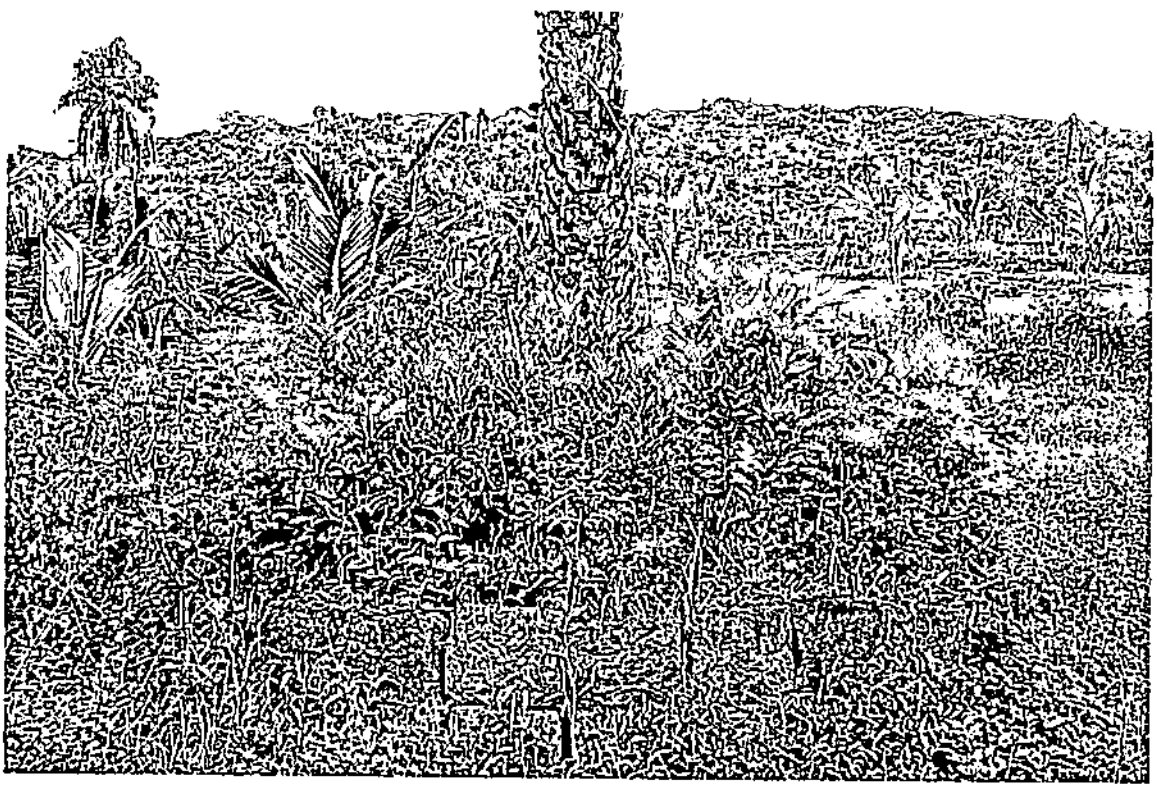


13. NEW SAPLINGS KEPT READY FOR PLANTATION

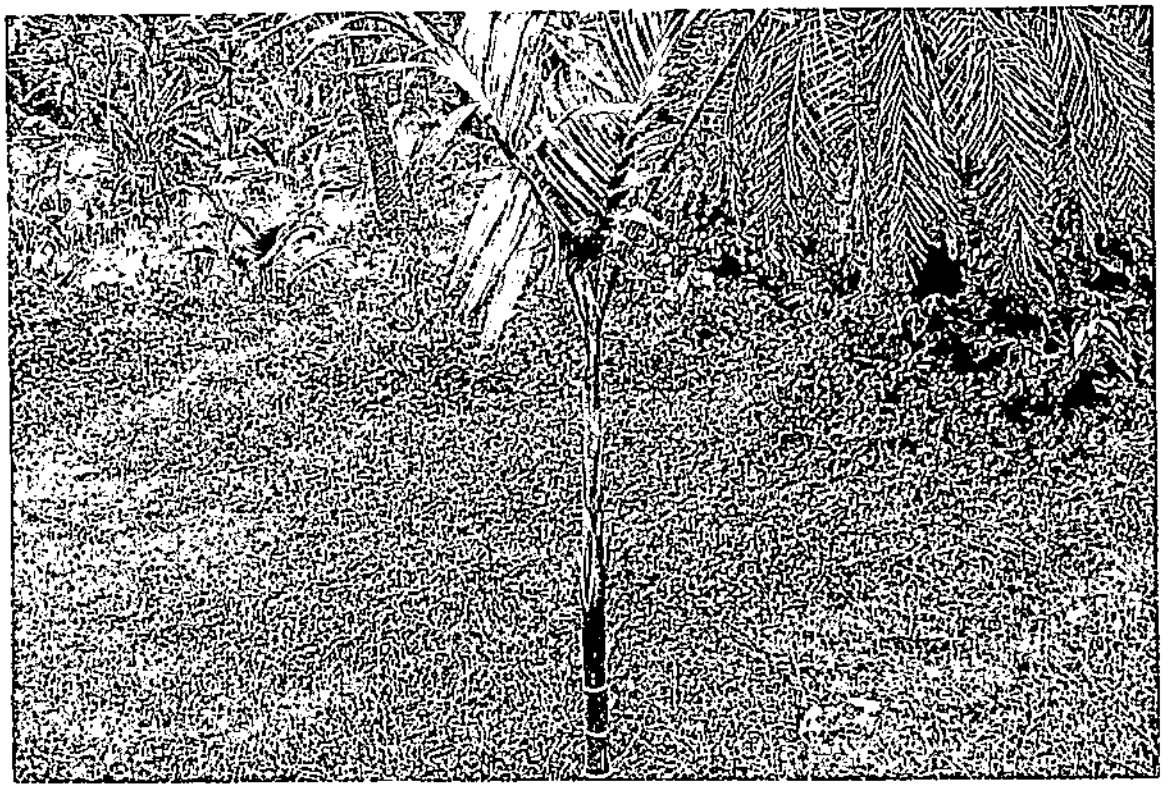


14. 02 WORKERS SEEN PLANTING SAPLINGS

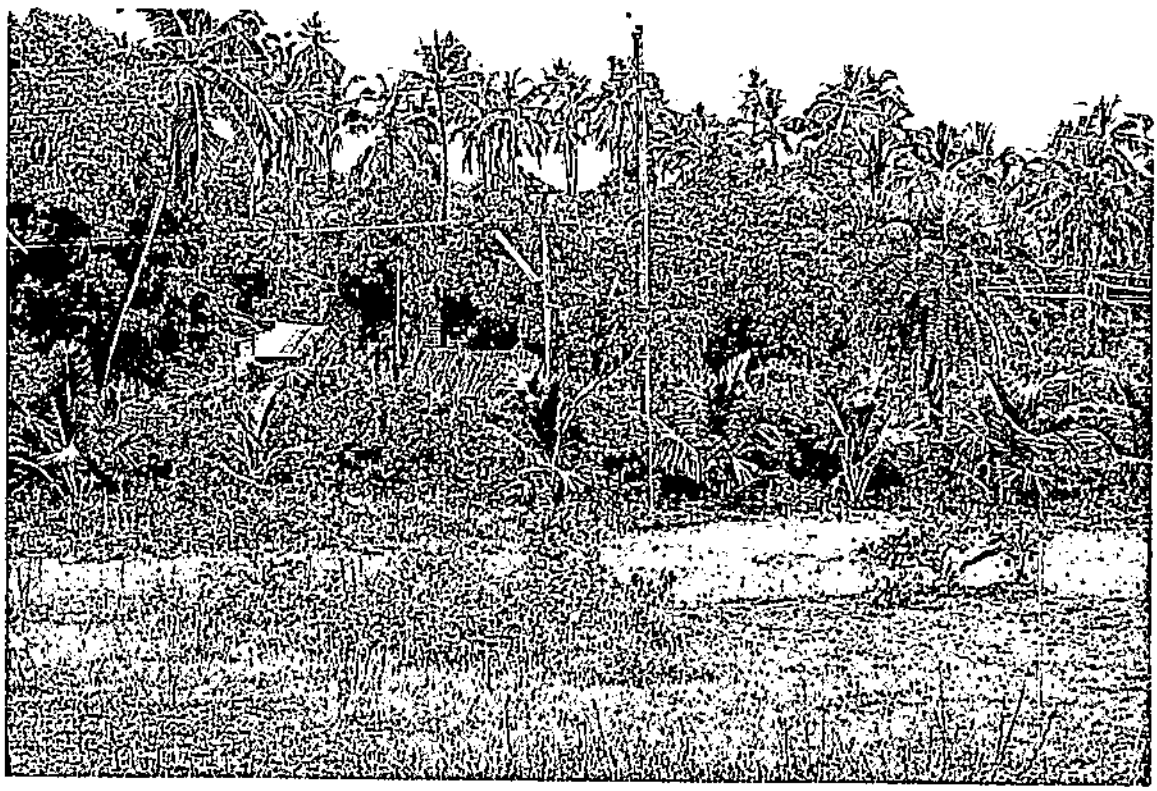
15. ORNAMENTAL PLANTS ALONG THE FENCED BOUNDARY



16. ORNAMENTAL PLANTS INSIDE THE PROPERTY



17. FRESH SAMPLING PLANTED IN THE MIDST OF NATURAL VEGETATION



18. OPEN SPACE AT THE WESTERN SIDE OF THE PROPERTY.

IN THE HIGH COURT OF BOMBAY AT PANAJI, GOA

Writ Petition No. 368 of 2010

Dr. Rakesh Sahni } ...Petitioner

Versus

1) State of Goa & Ors } ... Respondents

AFFIDAVIT OF THE PETITIONER DEALING WITH REPORT DATED 17/09/2010

I, Anil Mishra, aged about 42 years, Indian National, Constituted Attorney of the Petitioner above named, presently residing at S-7, 2nd Floor, Jairam Complex, Neuginagar, Panaji, Goa, do hereby on solemn affirmation state as under:

1. I state that the Petitioner herein is the co-owner and in possession of the landed farm property admeasuring 12,000 square metres under Survey No.222/1-B of Village Mandrem in Pernem Taluka. I state that the said property has been purchased by the Petitioner for the purpose of plantation and horticulture. I state that the said land of the Petitioner is a farm land which is presently being used for the purpose of horticultural farming and the Petitioner only wants to construct a farmhouse therein and has as such, applied the Respondent No.2 for its Approval for construction of the farmhouse which

application was rejected by the Respondent No.2. I state that the present Petition has been filed by the Petitioner challenging the rejection of the Petitioner's Application by the Respondent No.2 for construction of the farmhouse and for certain other Reliefs.

2. I state that this Hon'ble Court by its Order dated 13/09/2010 has directed the Respondents to carry out inspection and submit a Report as to the extent of the land and the extent of farming activity going on in the land by way of agriculture or horticulture and the number of trees standing on the land and their age.

3. I state that pursuant to the said Directions issued by this Hon'ble Court, the Respondent No.2 has conducted the Site Inspection on 17/09/2010; and thereafter submitted the Report dated 17/09/2010 along with the Affidavit dated 18/09/2010.

4. I state that this Hon'ble Court in its Order dated 13/09/2010 has only directed the Respondents to carry out inspection of the land and submit a Report as to the extent of the land and the extent of the farming activity going on in the land whether by way of agriculture or horticulture and the number of trees standing on the land and their age. I state that the Member Secretary of the Respondent No.2 who has submitted the said Report clearly exceeded the said directions in submitting the Report to this Hon'ble Court inasmuch as in

his Report the Respondent No.2 has made certain observations and comments which was not at all warranted. I state that the Petitioner's property lies within the CRZ-III. I state that the part of said property admeasuring about 2000 sq.mtrs lies within 200 metres of the High Tide Line. I state that within 200 meters from HTL, the uses permissible are: Agriculture, horticulture, gardens, pastures, parks, play fields, forestry and salt manufacture from sea water. I state that the Respondent No.2 has not been mention this aspect in its Report dated 17/09/2010. I state that the remaining portion of said property admeasuring 10,000 sq.mtrs is situated between 200-500 metres of the HTL. I state that said property is classified as an Orchard Zone (Agricultural A1/A2) as per the Certificate issued by the Town and Country Planning Department which is annexed to the Petition. I state that the uses permissible in Orchard zone (Zone A1& A2) as per the Goa Land Development and Building Construction Regulations,2010 published in Official Gazette dated 09/09/2010, are: Agriculture, Horticulture, Farming and allied operations. I state that in view of the aforesaid, the Petitioner is entitled to carry out the farming activity in said property.

5. I state that `Farmhouse` is defined in the Goa Land Development and Building Construction Regulations, 2010. I state that in the said Regulations for Farmhouse and other Auxilliary Structures for Residence of Farmer, Poultry or Animal

Sheds in Agricultural Lands is explained elaborately in Annexure –XI. I state that prior to the Goa Land Development and Building Construction Regulations 2010, the construction of Farmhouse was also permissible in Orchard zones. The footnote to the Annexure –XI states that 'Farm house shall be used as residence of the owner and farm workers, for storage of agricultural produce, storage of agricultural equipments, manure, pesticides for the use of farming, smoke houses, parking of owners tractors and vehicles and other uses allied to agriculture. I state that the farmhouse is an integral and an essential part of agricultural activity as agriculture, horticulture, gardens, pastures, parks, play fields, etc is permissible in CRZ-III areas in terms of the CRZ Notification itself. I state that therefore the statement of the Respondent no.2 in its report dated 17/09/2010 that 'construction of farmhouse is not amongst the permissible activity as defined under CRZ Notification,1991' is unwarranted and uncalled for more particularly when the CRZ itself permits farming activities in CRZ areas. I state that till date the Respondent No.2 has not filed any affidavit on merits of the case.

6. I state that the Report has been submitted to this Hon'ble Court without having factually ascertained the number of trees existing in the said landed property of the Petitioner. I state that at the time of the Site Inspection, the Officials who were present at the site had not even visited the entire plot of the

Petitioner. I state that it is only 3 years that have elapsed since the Petitioner has purchased the said property in the month of May 2007. I state that soon after purchase of the said property in the month of May 2007, the Petitioner carried out plantation of coconut saplings, banana plants, betelnut/arecanut saplings in the said plot of land. I state that the Respondent no.2 admits in its Report that there are 135 coconut trees which are as old as 2yrs. I state that the Petitioner had purchased coconut saplings and other saplings in the month of July 2008 and planted the same in the said property on 17/07/2008. I state that the Petitioner also provided irrigation pipe lines for watering the saplings by pumping water from the well in the property with two water tanks of 5000 lits each installed on the upper eastern portion of the property. Since then the Petitioner has been carrying out farming by employing one supervisor and three male workers for maintaining the plants. I state that the Respondent No.2 has agreed to most of these facts in its Report though has not detailed the plantations carried out. Yet the Respondent no.2 has asserted in the Report that most of the plantations are recent. I state that the Petitioner has purchased the said property only for the purpose of horticultural farming and has planted various saplings after purchase of the said plot of land. I state that the Petitioner is in the process of planting some more trees in the said property. I state that the Petitioner believes that planting of new saplings is a continous process. I state that most of the land comprises of lateritic soil with a few

patches of rocky area. I state that the Petitioner has planted trees in places wherever lateritic soil is available and has added manure and rich soil for better yield and growth as against what is alleged by Respondent No.2 in its Report. I state that the Respondent No.2 has not placed before this Hon'ble Court, the details of the plantation carried out by the Petitioner in the said plot of land in true perspective.

7. I state that since the Respondent No. 2 in his Report dated 17/09/2010, has not placed before this Hon'ble Court the correct details of plantation carried out by the Petitioner, the Petitioner by his letter dated 22/09/ 2009 requested Dr. H. Y. Karapurkar who is an Agricultural Consultant and Valuer and Ex Director of Agriculture, Government of Goa to give a Technical Report regarding the landed property of the Petitioner under Survey No.222/1B of Mandrem Village of Pernem Taluka. I state that pursuant to the request of the Petitioner, Dr. Karapurkar inspect the site on 24/09/2010 and collected the necessary details such as the type of land, its typography, the type of soil, types of crops of the land, their age and other infrastructure facilities like irrigation facilities etc. I state that after having carried out the site inspection, Dr. Karapurkar submitted a Report on the landed property of the Petitioner. I am annexing a copy of the said Report dated 24/09/2010 along with this Affidavit submitted by Dr. Karapurkar which clearly shows that the Petitioner has indeed carried out horticultural

farming in the said property. I state that in addition to the said Report, I am also annexing photographs of the various plantation carried out by the Petitioner in the said property.

8. I state that even otherwise, in terms of earlier Regulations and Goa Land Development and Buildings Regulations 2010 as published in the Official Gazette dated 09/09/2010 for the purpose of constructing a farmhouse, the agricultural or horticultural activities is not a condition precedent. I state that the in the rules/ guidelines and procedures adopted by the Town & Country Planning Department for approving the farmhouses on lands classified as Orchard zones (A1 & A2 zones), the carrying out of agricultural or horticultural activities prior to grant of approvals for farmhouse is not a condition precedent. I state that the Town & Country Planning Department be directed to submit to this Hon'ble Court the correct procedure and criteria for approval of the Farmhouse as the said Department is the Competent Authority to opine on this matter. I state that in the present case, even the Report submitted by the Respondent No.2 shows that the Petitioner has indeed carried out horticultural activities in the said property. I state that the Respondent no.2 has admitted that the land is gently sloping which is beneficial for the grant of approvals for the farmhouse. I state that the construction of the farmhouse in the said property is absolutely necessary for the Petitioner and the said property has not been purchased by the

Petitioner for the purpose of development as alleged in the Report submitted by the Respondent No.2 which is otherwise beyond the scope of the Direction issued by this Hon'ble Court in its Order dated 13/09/2010.

9. I state that in view of the above, it is clear that the Petitioner has indeed carried out horticultural activity by planting various saplings. I state that the Horticulture activity undertaken by the Petitioner is beneficial to ecology of the coastal area and environment as compared to permissible uses otherwise permitted in CRZ areas.

10. I state that whatever has been stated hereinabove is true and correct.

Solemnly affirmed at Panaji, Goa } -sd-
this 27th day of September, 2010 } **DEPONENT**

Identified by me:- -sd-

REPORT ON LANDED PROPERTY NAMED "BABGAUDO" UNDER SURVEY NO. 222/1B LOCATED IN VILLAGE MANDREM OF PEDNEM TALUKA OF GOA STATE AND BELONGING TO DR. RAKESH SAHNI.

Prepared by:
Dr. H.Y. Karapurkar
Karapurkar Agroctech Services

Place:- Panaji – Goa
Date:- 24/09/2010

KARAPURKAR AGROTECH SERVICES

First Floor, Swati Bldg., St. Inez, Panaji, Goa - 403 001 Tel.: 3290989

Dr. H. Y. Karapurkar
Dr. Sc. (agriculture)
Consultant & Approved
Agricultural Valuer

TECHNICAL REPORT

Shri. Anil Mishra, Attorney of Dr. Rakesh Sahni, owner of landed property named "Babgaudo" has approached me with a request to give a Technical Report regarding the landed property named "Babgaudo" under survey No. 222/1B and located in Mandrem village of Pernem Taluka in Goa state.

I inspected the site on 24/09/2010 along with Shri. Anil Mishra Attorney of owner of Land to see for myself the property and collect necessary details such as the type of the land, its topography , type of soil, types of crops on the land, their age and other infrastructure facilities like irrigation facilities etc. The Owner purchased this land in the year 2007.

Description of the property

The whole land admeasures 12000 m2 or 1.2 Hectares. The land is sloppy in nature with slight gradient. However terraces have been made making it feasible for growing crops. The soil is lateritic in nature. It is observed that along the borders of the terraces crops like coconut and arecanut have been planted. The details of all crops grown on the property are as follows:-

1) **Cashewnut:-**
   There are about 39 cashew trees of local variety existing at the time of purchase of land. They are over 15 to 20 years of age.

2) **Coconut:-**
   There are about 200 coconut trees which are about 2 years of age which are still in the Seedling stage. At one side along the boundary they are very thickly planted and need to be separated and planted at open spaces available so that they grow healthily. In addition there are about 40 young seedlings planted this season. The stand of the crop is good.

3) **Banana:-**
On the lower level on the left side of the entrance gate and very near the open well there is a plot of about 30 banana plants. Some plants were bearing banana bunches. If the area is cleared some more suckers can be planted and make it a nice banana plot.

4) **Betelnut:-**
There are about 80 betelnut seedlings planted this season at higher level. However these seedlings need to be removed and planted on the lower level near the existing well to facilitate irrigation.

5) **Infrastructure facilities:-**
There is an open dug well and a bore well fitted with water pumps and connected by underground pipes thus enabling to irrigate the standing crops during the off monsoon period.

Concluding it can be said that the land in question is ideally suited to grow Horticultural crops particularly Cashew, Mango and Coconut. Further in the open space available in between these plants crops like Pineapple, or Vegetables can be grown and the whole area could be made into a Modern Agricultural farm in view of the irrigation facilities available like open dug well and tube well.

Dr. H.Y. Karapurkar
Karapurkar Agrotech Services
Retired Director of Agriculture Government of Goa.

Place:- Panaji - Goa.
Date:- 24/09/2010

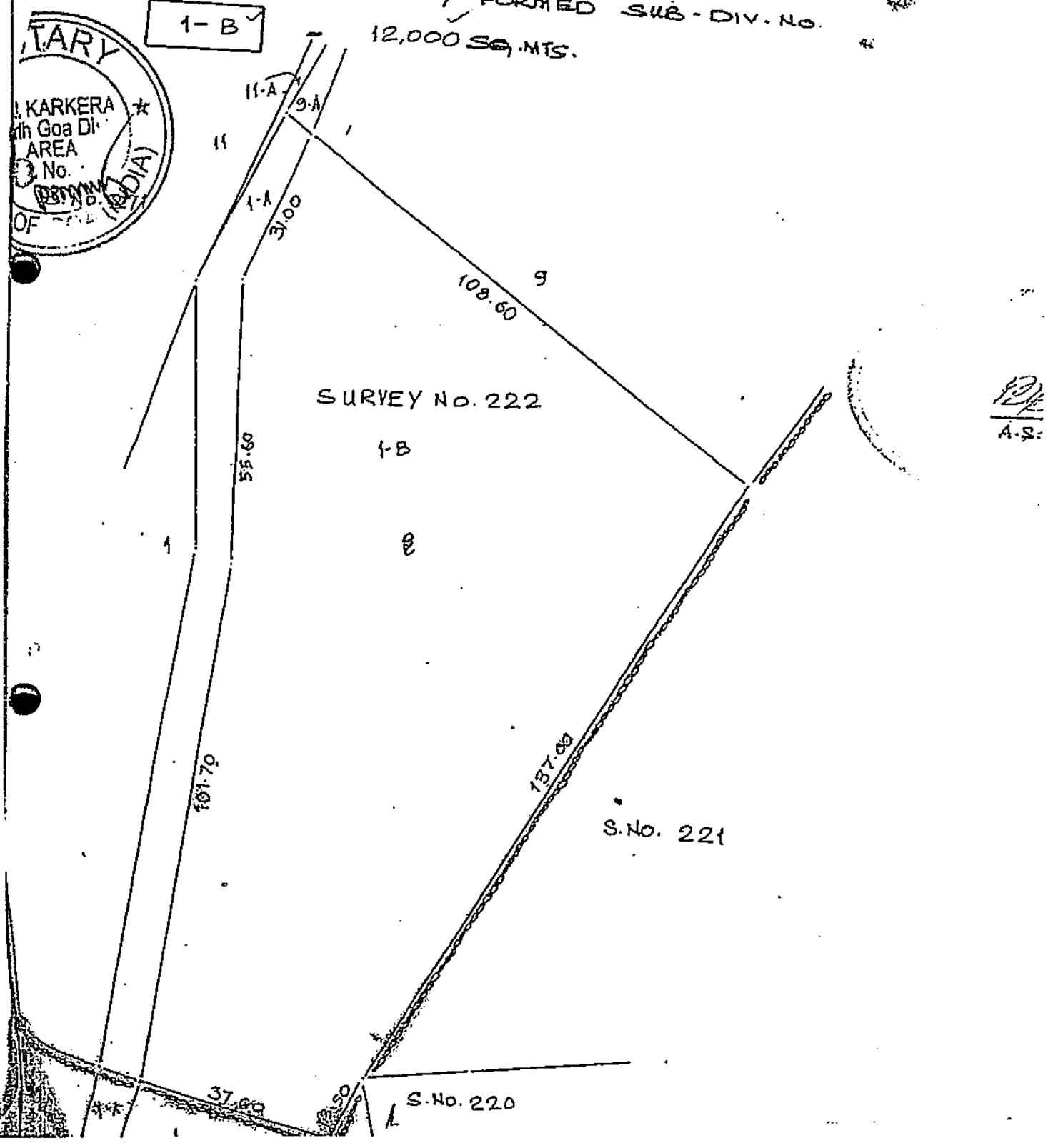
- GOA

PLAN

OF THE LAND BEARING SURVEY No. 222/1 SITUATED AT VILLAGE MANDREM OF PERNEM TALUKA SHOWING THEREIN THE NEWLY FORMED SUB-DIV. No. 1-B VIDE ORDER No. 5/102/Part/Land/07/437 DATED: 11/08/08 FROM DEPUTY COLLECTOR & S.D.O, PERNEM SUB-DIVISION, PERNEM - GOA

SCALE: 1:1000

AREA OF THE NEWLY FORMED SUB-DIV. No. 1-B 12,000 SQ.MTS.



IN THE HIGH COURT OF BOMBAY AT GOA, PANAJI

Writ Petition No. 368 of 2010

Dr. Rakesh Sahni, through P.O.A. Mr. Anil Mishra ..... Petitioner

v/s

State of Goa, through its Chief Secretary and 4 others ..... Respondents

AFFIDAVIT

I, Shri Michael M. D'Souza, aged 34 years, functioning as Member Secretary, Goa Coastal Zone Management Authority (GCZMA), at the Department of Science, Technology and Environment (DSTE), having its Office at Saligao-Goa ; do hereby solemnly state and affirm as follows:-

1. I say that, I am authorized to file the Affidavit on behalf of GCZMA who is Respondent No. 2 in the said Writ Petition.

2. I say that, I am filing the present Affidavit for the limited purpose for placing on record the Site Inspection Report on the status of the land belonging to the Petitioner in Survey No. 222/1-B on Mandrem Villlage, Pernem Taluka.

I say that, I am not dealing with all the contentions raised / averments made by the Petitioners and that nothing should be held to have been admitted by the Respondent which has not been specifically denied or admitted. I crave leave to file a further detailed Affidavit-in-reply dealing with all the contentions raised / averments made in the present petition, in due course.

3. I say that, the Hon'ble High Court by its Order dated 13-09-2010 has directed, "*...the respondents to carry out inspection of the land and submit a report as to the extent of the land and the extent of the farming*

activity going on in the land whether by way of agriculture or horticulture and number of trees standing on the land and their age."

4. I say that, as directed by the Hon'ble High Court, Respondent No. 2 has conducted the Site Inspection on 17-09-2010. A Report has been prepared providing all details on the status of the said land.

Annexed herewith is the copy of the Report dated 17-09-2010.

5. I say that, it is humbly requested that the Report may be considered by the Hon'ble High Court.

6. I do hereby verify and solemnly declare that the contents of para No. 1 to 5 are true to my knowledge and based on records available in my Office.

Solemnly affirmed at Panaji – Goa on this 18th day of September in the year 2010

Respondent No. 2

Identified by me

501/164216

FORM I & XIV

नमुना नं. १ व १४

Date : 09/02/2009

Page 1 of 1

Taluka तालुका	PERNEM	Survey No. सर्व्हे नंबर	222
Village गांव	MANDREM	Sub Div. No. हिस्सा नंबर	1-B
Name of the Field शेताचें नांव	बाबाजावाडो	Tenure सत्ता प्रकार	

NOTARY P.J. KARKERA North Goa Dist. AREA Reg. No. 140 GOVT. OF GOA (INDIA)

Cultivable Area (Ha.Ars.Sq.Mtrs) लागण क्षेत्र (हे.आर.चौ.मी.)

Dry Crop जिरायत	Garden बगायत	Rice तरी	Khajan खाजण	Ker केर	Morad मोरड	Total Cultivable Area एकूण लागण क्षेत्र
0000.00.00	0001.20.00	0000.00.00	0000.00.00	0000.00.00	0000.00.00	0001.20.00

Un-cultivable Area (Ha.Ars.Sq.Mtrs) नापिकक्षेत्र (हे.आर.जौ.मी.)

Pot-Kharab पोट खराब

Class (a) वर्ग (अ)	Class (b) वर्ग (ब)	Total Un-Cultivable एकूण नापिक जमीन	Grand Total एकूण	Remarks शेरा
0000.00.00	0000.00.00	0000.00.00	0001.20.00	

Assessment : Rs. 0.00 आकार | Foro Rs. 0.00 फोर | Predial Rs. 0.00 मेदियाल | Rent Rs. 0.00 रेंट

S.No.	Name of the Occupant कबजेदाराचे नांव	Khata No. खाते नंबर	Mutation No. फेरफार नं	Remarks शेरा
1	Dr. Rakesh Sahni		11671	
2	Dr.Sushma Sahni &		11671	
3	Gargi Sahni		11671	

S.No.	Name of the Tenant कब्जाचे नांव	Khata No. खाते नंबर	Mutation No. फेरफार नं	Remarks शेरा
1	----------Nil----------			

Other Rights इतर हक्क Name of Person holding rights and nature of rights: इतर हक्कधारण करणा - याचे नांव व हक्कप्रकार	Mutation No. फेरफार नं	Remarks शेरा
----------Nil----------		

Details of Cropped Area पिकखालील श्रेत्राचा तपशील

Year वर्ष	Name of the Cultivator लागण करणा-याचे नांव	Mode रीत	Season मौसम	Name of Crop पिकाचे नांव	Irrigated बागायत Ha.Ars.Sq.Mts हे.आर.जौ.मी	Unirrigated जिरायत Ha.Ars.Sq.Mts हे.आर.जौ.मी	Land not Available for cultivation नापिक जमिन Nature प्रकार	Area क्षेत्र Ha.Ars.Sq.Mts हे.आर.जौ.मी	Source of irrigation सिंचनाचा प्रकार	Remarks शेरा
	----------Nil----------									

End of Report

For any further inquires, please contact the Mamlatdar of the concerned Taluka.

OFFICER IN CHARGE
LAND RECORDS
VICE GOVERNMENT ORDER
Date of issue 9/02/09